



W.P(MD)No.22769 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2026

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P(MD)No.22769 of 2018

and

WMP (MD) Nos.20645 and 20646 of 2018

The Secretary
The Malankara Catholic College
Mariagiri
Kanyakumari – 629 153.

... Petitioner(s)

vs.

1. The State of Tamilnadu,
Rep.By its Secretary,
Department of Housing and Urban Development,
Fort.St.George,
Chennai-9.

2. The Director of Town & Country, Planning,
Directorate of Town & Country Planning
No.807, Anna Salai,
Chennai-2.

3. The Deputy Director of Town & Country Planning,
Tirunelveli Region,
108, Trivandrum Road, Tirunelveli-2.

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4. The Member Secretary,
Nagercoil Local Planning Authority,
Nagercoil-1,
Kanyakumari District.

5. The Methukummel Town Panchayat,
Methukummal,
Kanyakumari District ,
Rep.By its Executive Officer.

... Respondent(s)

PRAYER : Writ Petition, filed under Article 226 of the Constitution of India, praying this court to issue a Writ of Certiorari calling for the records relating to impugned government Order issued by the 1st respondent in G.O.Ms.No.76, Housing and Urban Development (UD4(3) Department dated 14/06/2018, quash the same , in so far as the petitioners college is concerned.

For Petitioner	: Mr.K.Ragatheesh Kumar for M/s.Isaac Chambers
For R1 to R3	: Ms.K.R.Shivashankari, Counsel for State
For R5	: Mr.M.Mahaboob Athiff, Counsel for State

ORDER

The present writ petition has been filed challenging the G.O.Ms.No. 76, Housing and Urban Development (UD4(3) Department dated 14.06.2018, issued by the first respondent.



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2. The learned counsel appearing for the petitioner college would submit that the petitioner is Malankara Catholic College, Mariagiri, an Arts and Science College for Women situated at Mariagiri, Kanyakumari District. The College is affiliated to Manonmaniam Sundaranar University, Tirunelveli and is a minority educational institution entitled to protection under Article 30 of the Constitution of India. The College was established by the Roman Catholic Diocese of Marthandam (Syro-Malankara Catholic Diocese) and the educational institution was registered on 13.03.1998 for administering the institution. The petitioner college is situated in an extent of 5.64 acres within the limits of the fifth respondent Town Panchayat. All the necessary infrastructure, including academic buildings, administrative blocks, hostel buildings and other facilities, were constructed after obtaining building plan approval from the competent local authority, namely, the fifth respondent Town Panchayat. The main college building was constructed in 1998, the compound wall in 2001, the third-floor in the existing building in 2002, extension of ground and first floors in 2006, a new Ground +3 floors in 2009 and further construction of third floor in 2010. While so, the third respondent, by notice dated 04.04.2013 issued under Sections 56, 57 and 85 of the “Tamil Nadu Town and Country Planning Act, 1971” (hereinafter



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referred to as “the Act” for brevity), alleged that the college buildings had been constructed without obtaining planning permission under Section 47-A(2) of the Act and directed the petitioner to obtain approval. Thereafter, the petitioner submitted a detailed explanation on 17.04.2013, stating that all the buildings had been constructed after obtaining approval from the competent local authority, namely, the fifth respondent Town Panchayat. Nevertheless, the third respondent reiterated the very same objection by proceedings dated 15.05.2013 and again insisted the petitioner to obtain approval under Section 47-A(2). Subsequently, after nearly one year and ten months, another notice dated 26.02.2015 was issued reiterating the very same requirement. While matters stood thus, the first respondent issued G.O.(Ms.) No.76, Housing and Urban Development [UD4(3)] Department, dated 14.06.2018, providing a scheme for grant of concurrence in respect of buildings constructed before 01.01.2011 in non-planning areas, on payment of Rs.7.50 per square foot of Floor Space Index and directing educational institutions to submit applications with the required documents. Challenging the validity of the said Government Order, the present writ petition has been filed.



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3. Learned counsel for the petitioner would submit that identically placed educational institutions had already challenged the very same Government Order in W.P. Nos.18539 of 2018 & batch cases and this Court, by order dated 10.12.2018, quashed the Government Order. Hence, the petitioner is also entitled to the very same benefit.

4. Per contra, the learned Counsel for State appearing for the respondents would submit that though the learned Single Judge had passed orders in the earlier batch of cases, the State preferred Writ Appeals and the Division Bench, by judgment dated 10.02.2021, modified the directions issued by the learned Single Judge. Accordingly, it is submitted that the present writ petition may also be disposed of in terms of the judgment of the Division Bench, by directing the petitioner to comply with the directions contained therein.

5. This Court has carefully considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The challenge in the present writ petition is to G.O.(Ms.) No.76,



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Housing and Urban Development Department, dated 14.06.2018. It is not in dispute that the very same Government Order had earlier been challenged before this Court in a batch of writ petitions. Though the learned Single Judge, by order dated 10.12.2018, allowed the writ petitions, the said order was carried in appeal by the State. The Division Bench of this Court, in W.A. No.233 of 2019 and batch, by judgment dated 10.02.2021, modified the order passed by the learned Single Judge and issued specific directions governing all similarly placed educational institutions. The judgment of the Division Bench has attained finality and is binding on this Court. The relevant portions of the judgment are extracted hereunder:

“12.On consideration of the rival submission, it is evident that most of the educational institutions have chosen to comply with G.O. Ms. No.76, Housing and Urban Development (UDA (3) Department dated 14.06.2018. However. by virtue of the interim stay granted in the Writ Petition, some of the educational institutions could not get their applications processed. Therefore, they have filed impleading applications to vacate the interim stay so as to enable them to apply for concurrence from the Town and Country Planning authorities. All the applications were dismissed by the learned single Judge, which has given

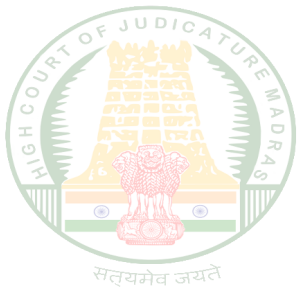


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13. In our opinion, when the Government itself says that obtaining concurrence is only optional and not mandatory, dealing with the direction given by the learned single Judge is unnecessary. Therefore, by recording the statement of the respondents in para Nos. 5 and 6 above to the effect that compliance of the Government Order is not mandatory and it is only optional, the writ appeals can be disposed of.

14. In the light of the above submission of the learned counsel on either side, particularly, the averments in Para Nos. 5 and 6 of the counter affidavit filed before the learned single Judge in WP No. 17178 of 2018, which we have extracted above, all the writ appeals are disposed of. No costs. We direct the Directorate of Town and Country Planning to process the applications already filed by the educational institutions during the pendency of the writ petition/writ appeal before this Court seeking concurrence and to pass appropriate orders thereof as per the guidelines issued in G.O. Ms. No.76, Housing and Urban Development Department dated 14.06.2018. To those educational institutions, who have not applied so far, they are permitted to submit their application (s) seeking concurrence to the Directorate of Town and Country Planning within a period of two weeks from the date of receipt of a copy of this judgment



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7. Following the aforesaid judgment of the Division Bench, this Court directs the petitioner college to submit the application seeking concurrence to the Directorate of Town and Country Planning within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the Directorate shall process it and pass appropriate orders thereof.

8. This writ petition stands disposed of with the above direction. No costs. Consequently, the connected miscellaneous petitions are closed.

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NCC : Yes / No
Index : Yes / No
Internet : Yes
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M.DHANDAPANI,J.

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**ORDER MADE IN
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