

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.04.2015

CORAM:

THE HON'BLE MR.JUSTICE SATISH K. AGNIHOTRI
AND
THE HON'BLE MR.JUSTICE M.VENUGOPAL

W.P. No.10484 of 2015 and M.P. Nos.1 and 2 of 2015

Siva Para Medical Institute
represented by its Correspondent
Siva Educational Trust
Zamin Kottampatti Pirivu
Samathur Post
Pollachi Taluk
Coimbatore District

Petitioner

vs.

- 1 The Commissioner of Town and Country Planning
O/o.Director of Town and Country Planning
807 Anna Salai, Chennai 600 002
- 2 The Deputy Director of Town and Country Planning
Coimbatore Region
Dr. Nanjappa Road
Coimbatore District 641 018
- 3 Zamin Kottampatti Village Panchayat
represented by its President
Zamin Kottampati Village
Pollachi Taluk
Coimbatore District 642 123

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records of the respondents, relating to the orders of the first respondent in D.O. Roc No.9263/2012-UAC dated 21.07.2014 and the order of the second respondent in Na.Ka. No.3017/2012, Ko.Ma.4 dated 12.02.2015 and quash the same.

For petitioner Mr. N. Kulandaivelu
for M/s. Muthumani Doraisami

For RR 1 & 2

Mr. N. Sakthivel
Government Advocate

For R3

Mr. S. Pattabiraman

ORDER

(Order of the Court was made by SATISH K. AGNIHOTRI, J.)

Mr. N. Sakthivel, learned Government Advocate, accepts notice for respondents 1 and 2. Mr. S. Pattabiraman, learned counsel, takes notice for the third respondent. With the consent of the learned counsel for the parties, the writ petition is taken up for final disposal.

2 This writ petition is filed challenging the order of the first respondent in D.O. Roc No.9263/2012-UAC dated 21.07.2014 and the order of the second respondent in Na.Ka. No.3017/2012, Ko.Ma.4 dated 12.02.2015, stating that in spite of opportunity having been given, the petitioner institution has not submitted its approved plan and therefore, the building in question will be locked and sealed.

3 The learned counsel for the petitioner submits that the petitioner institution is having approved plan granted by the competent authority/local body and based on the approved plan only, the buildings were constructed prior to 2010. The learned counsel relied on a Division Bench judgment of this Court in The District Collector and Others vs. Danial Thangaraj and another¹ as well as the order of a learned Single Judge in Apesh Construction Ltd.² vs. The Corporation of Madurai and an unreported judgment dated 15.06.2012 passed in W.P. No.11031 of 2011, in support of his contentions.

4 The impugned notice dated 12.02.2015 was passed based on D.O.Roc. No.9263/2012-UAC dated 21.07.2014, which is also impugned in this writ petition. Since the petitioner/educational institution is contending that it has obtained the approval plan from the competent local authority on 03.03.2004 and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit its objections/representations qua the impugned notice dated 12.02.2015. It is stated by the learned counsel for the petitioner that the petitioner has already submitted a representation dated 31.03.2015. As referred to above, the impugned notice dated 12.02.2015 was issued based on the communication issued by the first respondent.

¹ 2013 WLR 925

² 2013 (2) CTC 180

Hence, the second respondent is directed to get a clarification from the first respondent, who is bound to clarify, to take further action in the matter, as the action initiated is based on D.O.Roc.No.9263/2012-UAC dated 21.07.2014 issued by the first respondent. After receiving the said clarification, the second respondent is directed to pass a speaking order, on consideration of the petitioner's representation dated 31.03.2015, in accordance with law, within a period of one week. Needless to state that each and every submission averred by the petitioner in its representation is to be adverted to and a reasoned order is required to be passed. Till fresh orders are passed by the second respondent as stated supra, status quo as obtained today, in respect of the building of the petitioner/educational institution, shall be maintained by both the parties.

5 This writ petition is disposed of with the above direction. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad
To

- 1 The Commissioner of Town and Country Planning
Directorate of Town and Country Planning
807 Anna Salai, Chennai 600 002
- 2 The Deputy Director of Town and Country Planning
Coimbatore Region
Dr. Nanjappa Road
Coimbatore District 641 018
- 3 The President
Zamin Kottampatti Village Panchayat
Zamin Kottampati Village
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Coimbatore District 642 123

1 cc to M/s. Muthumani Doraisami, Advocate, Sr. 22684
1 cc to Government Pleader, Sr. 22925

W.P. No.10484 of 2015

RSY (CO)
kk 6/5