IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.04.2015

CORAM:

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

W.P. No.11808 of 2015 and M.P. Nos.1 and 2 of 2015

Jay Shriram Group of Institutions
represented by its Chairman
Dharapuram Road
Avinashipalayam
Tirupur District 638 660 Petitioner

vs.

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
Corporation Commercial Complex
Dr. Nanjappa Road
Coimbatore 641 018

3 S. Avinashipalayam (Grade - I) Panchayat
represented by its President
Pongalur Taluk
Tirupur District

4 Alagumalai Panchayat
represented by its President
Pongalur Taluk
Tirupur District Respondents

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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 order of the first respondent in D.O. Roc No.9263/2012-UAC dated 21.07.2014 and the order of the second respondent ending with Na.Ka.No.3017/2012 CR4 dated 12.02.2015 and 1061/2013 CR4 dated 24.03.2015 and quash the same.

For petitioner Mr. Kandhan Doraisamy

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For RR 1 & 2 Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For RR 3 & 4 Mr. R. Ravichandran
Addl. Govt. Pleader

ORDER

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

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 ending with Na.Ka.No.3017/2012 CR4 dated 12.02.2015 and 1061/2013 CR4 dated 24.03.2015, 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.

2 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 another[1] as well as the order of a learned Single Judge in Apesh Construction Ltd. vs. The Corporation of Madurai [2]and an unreported judgment dated 15.06.2012 passed in W.P. No.11031 of 2011, in support of his contentions.

3 The impugned notices dated 12.02.2015 and 24.03.2015 were passed based on D.O.Roc. No.9263/2012-UAC dated 21.07.2014, which is also impugned in this writ petition and the said proceedings reads as follows:

"D.O. from Commissioner
D.O. Roc.No.9263/2012-UAC dated 21.07.2014

Dear Thiru. . . .

Sub: Unauthorised educational institutions – Enforcement action like locking and sealing of the premises to be taken without any delay – Regarding.

Ref: This office letters of even no.dated 28.08.2012 and 08.01.2013.

1 2013 WLR 925
2 2013 (2) CTC 180

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You are aware that a list of total colleges including engineering colleges, arts and science colleges, B.Ed. Colleges, ITI, medical colleges and para medical colleges functioning within your jurisdiction was sent to you vide reference cited above and you were requested to take action against those unauthorised colleges after verifying with the approval register of your office. It is learnt that unauthorised construction notice has been issued by your office to most of the unauthorised colleges and schools within your area but, enforcement action as envisaged in the sections 56 and 57 of the Tamil Nadu Town and country Planning Act, 1971 like locking and sealing of the premises have not been proceeded against those institutions.

Your are hereby instructed to issue notice to unauthorised educational institutions for which notice was not issued so far and to take enforcement action like locking and sealing of those institutions for which notice was already issued and sufficient time as required under sections 56 and 57 is over. It is hereby informed that it is your responsibility to take proper enforcement action against the unauthorised educational institutions in your area and any slackness in this regard will be viewed very seriously and the officials of the field office will be held fully responsible. You are also requested to get in touch with the District Collector concerned and appraise regarding this subject to proceed with the enforcement action smoothly and effectively. You are requested to send an action taken report in this regard early."

Yours sincerely
(R. Venkatesan)

To
Assistant Director/Member Secretary of all
Composite Local Planning Authorities
New Town Development authorities and
Regional Deputy Directors (in charge)"

4 Since the petitioner/educational institution is contending that it has obtained the approval plan from the competent authority and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit its objections/representations about the impugned notices dated 12.02.2015 and 24.03.2015. It is stated by

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the learned counsel for the petitioner that the petitioner has already submitted a representation dated 12.04.2015. The impugned notices dated 12.02.2015 and 24.03.2015 were issued based on the communication issued by the first respondent. 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 Commissioner. After receiving the said clarification, the second respondent is directed to pass a speaking order, on consideration of the petitioner's representation dated 12.04.2015, in accordance with law, within a period of one week from the date of receipt of a copy of this order. 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 II)

/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

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3 The President
S. Avinashipalayam (Grade – I) Panchayat
Pongalur Taluk
Tirupur District

4 The President
Alagumalai Panchayat
Pongalur Taluk
Tirupur District

1 cc to Mr. muthumani Doraisami, Advocate, Sr. 21749
1 cc to Government Pleader, sr. 22538

W.P. No.11808 of 2015

JSV (CO)
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