

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. Nos.12352 and 12355 of 2015 and M.P. Nos.1 and 2 of 2015

Viswa Bharathi College of Education
represented by its Chairman and Secretary
Veerachipalayam
Sankari Post, Sankari (Tk)
Salem District 637 303

Petitioner in WP
No.12352/2015

Rabindranath Tagore College of Education
for Women
represented by its Chairman and Secretary
Veerachipalayam
Sankari Post, Sankari (Tk)
Salem District 637 303

Petitioner in WP No.12355/2015

vs.

1 The Commissioner of Town and Country Planning
O/o the Directorate of Town and Country Planning
807 Anna Salai, Chennai 600 002

2 The Deputy Director of Town and Country Planning
Salem Region
No.6, Sannadhi Street
Subramanya Nagar
Sooramangalam
Salem 636 005

RR 1 & 2 in both the WPs

3 Veerachipalayam Agraharam Village Panchayat
represented by its President
Veerachipalayam Agraharam
Sankari (Tk.), Salem District 637 303

R3 in WP
No.12352/2015

3 Alathur Village Panchayat
represented by its President
Alathur
Sankari (Tk.), Salem District 637 303

R3 in WP No.12355/2015

Writ Petitions 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 orders of the second respondent in Roc No. 1537/2014 SR-3 dated 13.02.2015 and quash the same.

For petitioner Mr. Kandhan Doraisamy
in both the WPs for M/s. Muthumani Doraisami

For RR 1 & 2 Mr. N. Sakthivel
in both the WPs Government Advocate

For R3 in Mr. M. Digvijaya Pandian
WP No.12352/2015

For R3 in Mrs. M.E. Rani Selvam
WP No.12355/2015

COMMON 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 in both the writ petitions. Mr. M. Digvijayapandian and Mrs.M.E.Rani Selvam, learned counsel, take notice for the respective third respondent. With the consent of the learned counsel for the parties, the writ petitions are taken up for final disposal, at the admission stage itself.

2 These writ petitions are filed challenging the orders of the first respondent in D.O. Roc No.9263/2012-UAC dated 21.07.2014 and the orders of the second respondent in Roc No.1537/2014 SR-3 dated 13.02.2015, stating that in spite of opportunity having been given, the petitioner institutions have not submitted their approved plan and therefore, the buildings in question will be locked and sealed.

3 The learned counsel for the petitioners submits that the petitioner institutions are 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.

¹ 2013 WLR 925

² 2013 (2) CTC 180

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 notices dated 13.02.2015 were passed based on D.O.Roc. No.9263/2012-UAC dated 21.07.2014, which is also impugned in this writ petition. Since the petitioners/educational institutions are contending that they have obtained the approval plan from the competent local authority and the buildings were constructed as per the approved plan, it is open to the petitioners/educational institutions to submit their objections/representations qua the impugned notices dated 13.02.2015. It is stated by the learned counsel for the petitioners that the petitioners have already submitted their representations dated 19.03.2015. As referred to above, the impugned notices dated 13.02.2015 were issued based on the communication issued by the first respondent. 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 petitioners' representations dated 19.03.2015, in accordance with law, within a period of one week. Needless to state that each and every submission averred by the petitioners in their 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 petitioners/educational institutions, shall be maintained by both the parties.

5 These writ petitions are disposed of with the above direction and observation. 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
O/o the Directorate of Town and Country Planning
807 Anna Salai, Chennai 600 002
 - 2 The Deputy Director of Town and Country Planning
Salem Region
No.6, Sannadhi Street
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 - 3 The President
Veerachipalayam Agraharam Village Panchayat
Veerachipalayam Agraharam
Sankari (Tk.), Salem District 637 303
 - 4 The President
Alathur Village Panchayat
Alathur
Sankari (Tk.), Salem District 637 303
- 2 ccs to M/s. Muthumani Doraisami, Advocate, Sr., 22686
1 cc to Government Pleader, sr. 22926
1 cc to Mr.M. Digvijayapandian, Advocate, sR. 23394

W.P. Nos.12352 and 12355 of 2015

NM (cO)
kk 5/5

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