

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.12357, 12359 and 12361 of 2015
and

M.P. Nos.1 and 2 of 2015

Vivekanandha College of Engineering for Women
represented by its Chairman and Secretary
Elayampalayam Post - 637 205
Thiruchengodu Taluk
Namakkal District ...Petitioner in WP No.12357/2015

Vivekanandha College of Education for Women
represented by its Chairman and Secretary
Elayampalayam Post - 637 205
Thiruchengodu Taluk
Namakkal District ...Petitioner in WP No.12359/2015

Vivekanandha College of Nursing
represented by its Chairman and Secretary
Elayampalayam Post - 637 205
Thiruchengodu Taluk
Namakkal District ...Petitioner in WP No.12361/2015

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 all the WPs

- 3 The President
Unjanai Panchayat
Elachipalayam Union
Thiruchengodu Taluk
Namakkal District ...R3 in WP No.12357/2015
- 3 The President
Sathinaikkanpalayam Panchayat
Sathinaickenpalayam 637 205
Namakkal Taluk ...R3 in WP No.12359/2015
- 3 Elachipalayam Panchayat Union
represented by its Commissioneer
Elachipalayam
Thiruchengodu Taluk
Namakkal District ...R3 in WP No.12361/2015

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 ending with Roc No.979/2011 SR-3 dated 08.08.2014 and Roc No.1537/2014 SR-3 dated 12.02.2015 and quash the same.

For petitioner : Mr. Kandhan Doraisamy
in all the WPs

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

For R3 in : Mr. M. Digvijaya Pandian
WP No.12357 and
12359/2015

For R3 in : Mrs. M.E. Rani Selvam
WP No.12361/2015

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 all the three writ petitions. Mr. M. Digvijayapandian, learned counsel, accepts notice for the third

respondent in W.P. Nos.12357 and 12359 of 2015 and Mrs. M.E. Rani Selvam, learned counsel, accepts notice for the third respondent in W.P No.12361 of 2015. 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 ending with Roc No.979/2011 SR-3 dated 08.08.2014 and Roc No.1537/2014 SR-3 dated 12.02.2015, 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. 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 08.08.2014 and 12.02.2015 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 12.02.2015. It is stated by the learned counsel for the petitioners that the petitioners have already submitted their representations dated 20.02.2015. As referred to above, the impugned notices dated 08.08.2014 and 12.02.2015 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

¹ 2013 WLR 925

² 2013 (2) CTC 180

order, on consideration of the petitioners' representations dated 20.02.2015, 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 buildings 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/-
Assistant Registrar (CS-II)

//True Copy//

Sub Assistant 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, Subramanya Nagar
Sooramangalam, Salem 636 005
- 3 The President
Unjanai Panchayat, Elachipalayam Union
Thiruchengodu Taluk, Namakkal District
- 4 The President
Sathinaikkanpalayam Panchayat
Sathinaickenpalayam 637 205
Namakkal Taluk

5 The Commissioner
Elachipalayam Panchayat Union
Elachipalayam
Thiruchengodu Taluk, Namakkal District

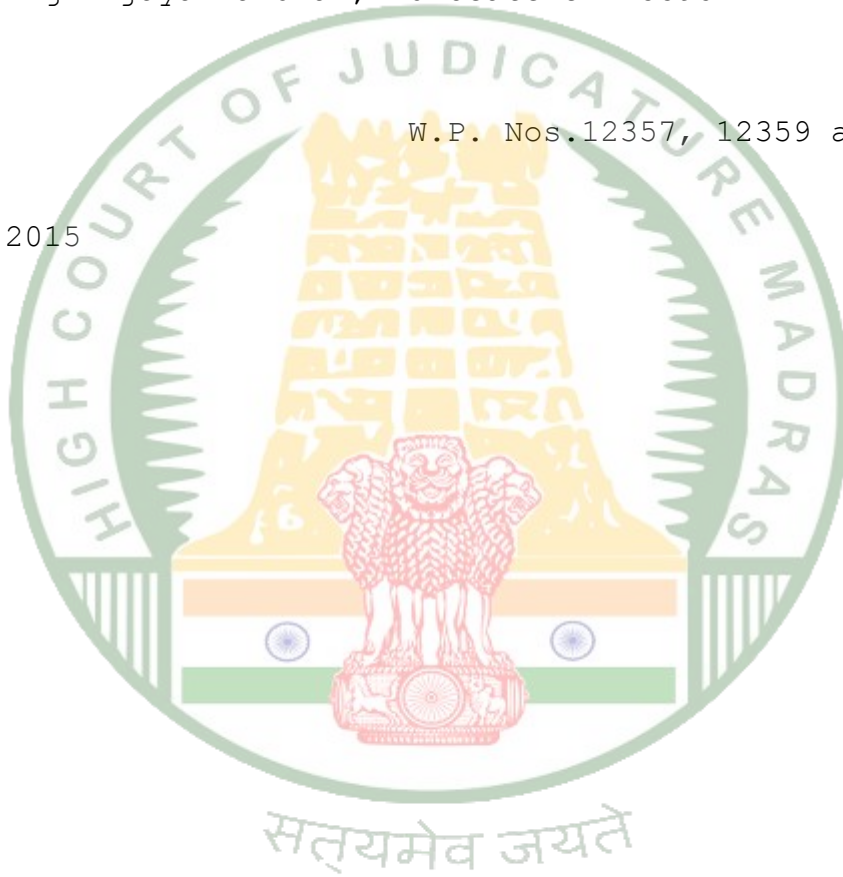
3CCs to M/s. Muthumani Doraisami, Advocate SR 22687

1CC to Government Pleader, SR 22978

1CC to Mr.Dig Vijaya Pandian, Advocate SR 23395

W.P. Nos.12357, 12359 and 12361 of 2015

KU [CO]
PSI 05.05.2015



WEB COPY