

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.12358, 12360, 12362 and 12364 of 2015
and
M.P. Nos.1 and 2 of 2015

Vivekanandha Engineering College for Women
represented by its Chairman and Secretary
NH-47, Salem - Kovai National Highway
Veerachipalayam
Sankari West Post, Sankari (Tk.)
Salem District 637 303 ...Petitioner in WP No.12358/2015

Vivekanandha Nursing College for Women
represented by its Chairman and Secretary
Veerachipalayam
Sankari West Post, Sankari (Tk.)
Salem District 637 303 ...Petitioner in WP No.12360/2015

Vivekanandha Institute of Medical Science and Research
represented by its Chairman and Secretary
Elayampalayam
Tiruchengode Taluk - 637 205
Namakkal District ...Petitioner in WP No.12362/2015

Vivekanandha Arts and Science College for Women
represented by its Chairman and Secretary
Veerachipalayam
Sankari West Post, Sankari (Tk.)
Salem District 637 303 ...Petitioner in WP No.12364/2015

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 Alathur Village Panchayat
represented by its President
Alathur
Sankari (Tk.),
Salem District 637 303 ...R3 in WP No.12358 &12364/2015
- 3 Veerachipalayam Agraharam Villlage Panchayat
represented by its President
Veerachipalayam
Sankari (Tk.)
Salem District 637 303 ...R3 in WP No.12360/2015
- 3 Elachipalayam Panchayat Union
represented by its Commissioner
Elachipalayam Panchayat Union
Tiruchengode Taluk
Namakkal District 636 705 ...R3 in WP No.12362/2015

Prayer in W.P. Nos.12358, 12360 and 12364 of 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 12.02.2015 and quash the same.

Prayer in W.P. Nos.12362 of 2015:

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 in 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
WP Nos.12358 : Mr. M. Digvijaya Pandian
and 12360/2015

For R3 in
WP Nos.12362 : Mrs. M.E. Rani Selvam
and 12364/2015

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 writ petitions. Mr. M. Digvijayapandian, learned counsel, accepts notice for the third respondent in W.P. Nos.12358 and 12360 of 2015. Mrs. M.E.Rani Selvam, learned counsel, accepts notice for the third respondent in W.P. Nos.12362 and 12364 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 in Roc No.1537/2014 SR-3 dated 13.02.2015 (in W.P.Nos.12358, 12360 and 12364 of 2015) and the order of the second respondent in Roc No.1537/2014 SR-3 dated 12.02.2015 (in W.P. No.12360 of 2014), 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.

¹ 2013 WLR 925

² 2013 (2) CTC 180

4 The impugned notices dated 13.02.2015 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 13.02.2015 and 12.02.2015. It is stated by the learned counsel for the petitioners that the petitioners have already submitted their representations dated 19.03.2015 (in respect of W.P. Nos.12358 and 12360 of 2015), representation dated 20.02.2015 (in respect of W.P. No.12362 of 2015) and representation dated 23.03.2015 (in respect of W.P. No.12364 of 2015). As referred to above, the impugned notices dated 13.02.2015 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 order, on consideration of the petitioners' representations dated 19.03.2015, 20.02.2015 and 23.03.2015 respectively, in accordance with law, within a period of one week. Needless to state that each and every submission averred by the petitioners in their representations 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/-
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
Alathur Village Panchayat
Alathur, Sankari (Tk.), Salem District 637 303
 - 4 The President
Veerachipalayam Agraharam Village Panchayat
Veerachipalayam
Sankari (Tk.), Salem District 637 303
 - 5 The Commissioner
Elachipalayam Panchayat Union
Elachipalayam Panchayat Union
Tiruchengode Taluk, Namakkal District 636 705
- 4 CCs to M/s. Muthumani Doraisami, Advocate SR.No. 22687
- 1 CC to the Government Pleader, SR.No. 22928

W.P. Nos.12358, 12360, 12362 and 12364 of 2015

KU (CO)
PSI (05.05.2015)

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