

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.04.2015

CORAM:

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

W.P.Nos.12789 to 12791 of 2015 and M.P. Nos.1 and 2 of 2015

In W.P.No.12789 of 2015:

1 Bharathiyar Institute of Engineering For Women
rep. by its Secretary
Deviyakurichi, Thalivasal Attur (Tk)
Salem District 636 112 Petitioner

In W.P.No.12790 of 2015:

1 Bharathiyar College of Education
rep. by its Secretary
Deviyakurichi, Attur (Tk)
Salem District 636 112 Petitioner

In W.P.No.12791 of 2015:

1 Bharathiyar Arts and Science College for Women
rep. by its Secretary
Deviyakurichi, Thalivasal
Attur (Tk)
Salem District 636 112 Petitioner

सत्यमेव जयते Vs

1 The Commissioner of Town and Country Planning
O/o.The Directorate of Town and Country Planning
807 Anna Salai
Chennai-2

2 The Deputy Director of Town and Country Planning
Salem Region
6 Sannathi street
Subramania Nagar
Sooramanglam
Salem 636 005

3 Deviyakurichi Village Panchayat
rep. by its President
Deviyakurichi, Attur Taluk
Salem District - 636 112 Respondents in all petitions

Common prayer: Writ Petitions filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records of the respondents relating to the orders of the 1st respondent in D.O.Roc. No.9263/2012-UAC dated 21.7.2014 and the orders of the 2nd respondent in Roc. No.1537/2014 SR-3 dated 13.2.2015 and quash the same.

For petitioner in
all the WPs Mr. Kandhan Doraisami

For RR 1 & 2 in Mr. P.S. Sivashanmugasundaram
all the WPs Special Government Pleader

For R3 in Mr. D. Suriya Narayanan
all the WPs

COMMON ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for respondents 1 and 2. Mr. D. Suriya Narayanan, learned counsel, accepts notice for the 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. 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 order dated 21.07.2014 passed by the first respondent in D.O.Roc. No.9263/2012-UAC and the notices dated 13.02.2015 issued by the second respondent are assailed in these writ petitions. 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 21.04.2015. 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 21.04.2015, in accordance with law, within a period of one week. Needless to state that each and every submission averred by the petitioners in their 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 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/-

Asst.Registrar (CS III)

/true copy/

Sub Asst. Registrar

cad

1 2013 WLR 925

2 2013 (2) CTC 180

To

1 The Commissioner of Town and Country Planning
O/o.The Directorate of Town and Country Planning
807 Anna Salai
Chennai-2

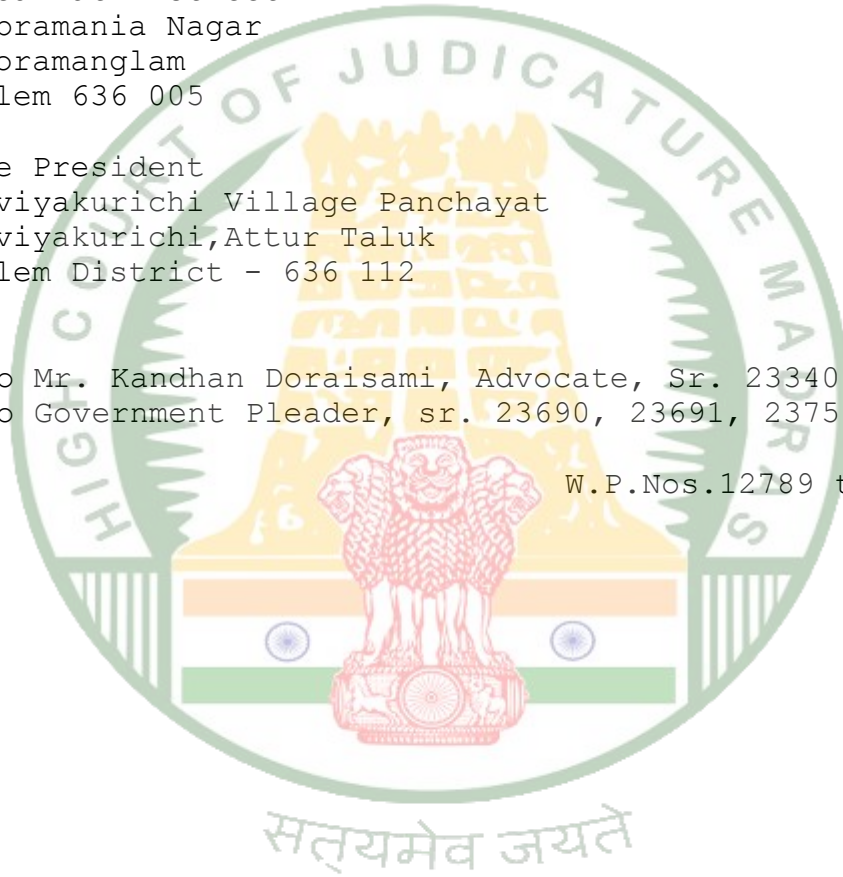
2 The Deputy Director of Town and Country Planning
Salem Region
6 Sannathi street
Subramania Nagar
Sooramanglam
Salem 636 005

3 The President
Deviyakurichi Village Panchayat
Deviyakurichi,Attur Taluk
Salem District - 636 112

3 ccs to Mr. Kandhan Doraisami, Advocate, Sr. 23340 to 23342
3 ccs to Government Pleader, sr. 23690, 23691, 23757

W.P.Nos.12789 to 12791 of 2015

RJ (CO)
kk 7/5



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