

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.12792 and 12793 of 2015
and M.P. Nos.1 and 2 of 2015

In W.P.No.12792 of 2015:

Padmavani Collage of Education
rep. by its Chairman
Opposite to Periyar University
Salem District 636 011

Petitioner

In W.P.No.12793 of 2015:

Padmavani Arts and Science College for Women
rep. by its Chairman
Opposite to Periyar University
Salem District 636 011

Petitioner

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 Member Secretary
Salem Local Planning Authority
Salem - 636 005

3 Kottagoundampatti Village Panchayat
rep. by its President
Kottagoundampatti, Omlur Taluk
Salem District 636 011

Respondents in both the WPs

Common prayer These 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 Na.Ka. No.648/2011 SeVuThiku. dated 13.02.2015 and quash the same.

For petitioner
in both the WPs

Mr. Kandhan Doraisamy

For R1 in
both the WPs

Mr. P.S. Sivashanmugasundaram
Special Government Pleader

For RR 2 & 3 in
both the WPs

Mr. D. Suriya Narayanan

COMMON ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, accepts notice for the first respondent. Mr. D. Suriya Narayanan, learned counsel, accepts notice for respondents 2 and 3. 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 Na.Ka.No.648/2011, Se.Vu.Thiku. 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 relies 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

¹ 2013 WLR 925

² 2013 (2) CTC 180

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

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 Member Secretary
Salem Local Planning Authority
Salem 636 005

3 The President
Kottagoundampatti Village Panchayat
Kottagoundampatti, Omlur Taluk
Salem District 636 011

2 ccs t M/s. Muthumani Doraisami, Advocate, sr. 23339, 23343
1 cc to Government Pleader, sr. 23692

W.P.Nos.12792 and 12793 of 2015

RK (CO)
kk 6/5



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