

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2015

CORAM:

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

W.P.No.13864 of 2015
and
M.P.No.1 of 2015

Pallavan Educational Trust Running the
Kanchi Pallavan Engineering College,
rep. by its Chairman
Thiru B.Bose,
23, I Street, Vedachalam Nagar,
Kancheepuram-631 502.

...Petitioner

Vs.

1. The Commissioner of Town and Country Planning,
807, Anna Salai,
Chennai-600 002.
2. The Zonal Deputy Director of Town and Country Planning,
Chengalpet Region,
Chengalpet.
3. The President,
Kolivakkam Village Panchayat,
Kancheepuram Panchayat Union,
Kancheepuram District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for a writ of Certiorarified Mandamus, calling for the records of the Second Respondent relating to the proceedings in Na.Ka.1632/2011 Se.Ma.3, dated 20.02.2015 and to quash the same and consequently, forbear the respondents from in any manner interfering with the peaceful possession of the building of the Petitioner Trust housing the Kanchi Pallavan Engineering College Kolivakkam, Iyyengarkulam Post, Kancheepuram Taluk and District-631 502.

For Petitioner : Mr.P.Srinivas
For Respondent : Mr.P.S.Sivashanmugasundaram
Nos.1 & 2 Special Government Pleader

O R D E R

[Order of the Court was made by M.VENUGOPAL, J.]

Mr.P.S.Sivashanmugasundaram, Learned Special Government Pleader accepts notice for the Respondents 1 and 2. With the consent of the Learned counsel appearing for the parties, the main Writ Petition is taken up for disposal, at the admission stage itself.

2.The Petitioner/Trust, in the present Writ Petition has challenged the impugned notice dated 20.02.2015 in Na.Ka.1632/2011 Se.Ma.3 issued by the Respondent/Authority on the ground that the said impugned notice is illegal and ultra vires to the provisions of the Tamil Nadu Town and Country Planning Act and the Rules made thereunder. Further, it is the specific stand of the Petitioner that the impugned notice dated 20.02.2015 is ultra vires to Section 56(4)A of the Tamil Nadu Town and Country Planning Act.

3.The Learned counsel for the Petitioner contends that the Petitioner/Trust is running the Kanchi Pallavan Engineering College from the year 2001 onwards, in the land and building belong to it and in fact, the building was constructed with the approval of Village Panchayat. Moreover, proper licence was also issued by the Competent Authority.

4.That apart, the Learned counsel for the Petitioner submits that the then President of the Village Panchayat had approved the building plans on 24.02.2003 following the remittance of the fees and charges pursuant to the approval granted in Resolution No.81, dated 06.01.2003. Added further, it is the plea of the Petitioner that the buildings were constructed and continued to be used as a public building for the purpose of the Educational Institution for more than 14 years.

5.According to the Learned counsel for the Petitioner, in the year 2011, the Second Respondent had issued notice to the Petitioner alleging that the buildings were put up without any approval and for this, the Petitioner submitted the copy of approval obtained and prayed for dropping of further action. However, no further action was taken by the Respondent. But all of a sudden, during the month of August 2013, the Petitioner received notices from the Second Respondent stating that Planning Permission for the buildings were not obtained from the Town Planning

Authorities.

6.It is further represented on behalf of the Petitioner that subsequently, the Second Respondent called upon the Petitioner to once again apply for approval, by filling up a list of documents and enclosures by paying 50% of the present charges and fees for obtaining approval of the Second Respondent. Apart from that, the Second Respondent also informed that various institutions regardless of their previous approval from the respective Village Panchayats, should obtain approval of the Planning Authorities and that the Petitioner should submit the applications.

7.At this stage, the Learned counsel for the Petitioner brings it to the notice of this Court that the Petitioner/Trust as a matter of abundant caution (notwithstanding the fact that the buildings were already approved by the Third Respondent/Competent Authority) applied for the approval before the Second Respondent on 20.12.2013 together with all the required annexures such as Title Deeds, Plans approved by the Panchayat, Building Plans in Triplicate and Site maps etc., and the said applications were duly acknowledged by the Second Respondent.

8.The Learned counsel for the Petitioner proceeds to contend that all of a sudden a computer printed notice dated 20.02.2015 was received by the Petitioner on 10.03.2015 under Sections 56 & 57 of the Tamil Nadu Town and Country Planning Act, 1971 stating that the premises would be locked and sealed for the failure to comply with the earlier notices dated 05.09.2013, 21.08.2013 and 19.09.2014 respectively. In this connection, it is the plea of the Petitioner that it submitted a reply on 11.03.2015, pointing out that as per the previous notice and as per the advice issued earlier, it had already applied for approval on 20.12.2013 and the same is pending and further requested that the Second Respondent should not take further action.

9.Besides the above, it is the clear cut case of the Petitioner/Trust that the Petitioner's buildings were constructed prior to the year 2010 and it has an approval plan issued by the Competent Authority/Local Body. Also, to lend support to his contentions, the Learned counsel placed reliance on the Division Bench Judgment of this Court in the District Collector and Others Vs. Daniel Thangaraj and another ¹ as well as the order of a Learned Single Judge in Apesh Construction Ltd., Vs. The Corporation of Madurai ² and an unreported order dated 15.06.2012 passed in W.P.No.11031 of 2011.

10.In view of the fact that the Petitioner/Trust had submitted its reply/representation to the impugned notice dated 20.02.2015 issued by the Second Respondent, this Court in the interest of Equity, Fair Play, Good Conscience and Justice, directs the Second

Respondent to look into the reply/representation of the Petitioner dated 11.03.2015 and earlier representations if any in the subject matter in issue and to pass an appropriate reasoned speaking order on its own merits, within a period of one week from the date of receipt of a copy of this order. In this regard, this Court very pertinently points out that the Second Respondent/Competent Authority shall take into consideration each and every plea projected by the Petitioner in its representation/representations furnished earlier and to deal with them in the manner known to law and in accordance with law, of course, by providing adequate opportunities to the Petitioner and others concerned. Till fresh orders are passed by the Second Respondent as stated supra, status quo as obtained today in respect of the buildings of the Petitioner/Trust shall be maintained by both the parties.

11. With the above observations and direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is also closed. No costs.

Sd/-
Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

DP

To

1. The Commissioner of Town and Country Planning,
807, Anna Salai,
Chennai-600 002.
2. The Zonal Deputy Director of Town and Country Planning,
Chengalpet Region,
Chengalpet.
3. The President,
Kolivakkam Village Panchayat,
Kancheepuram Panchayat Union,
Kancheepuram District.

1 CC to Mr.P.Srinivas, Advocate SR.No. 25752

1 CC to the Government Pleader, SR.No. 26415

W.P.No.13864 of 2015
and M.P.No.1 of 2015

VGI (CO)

PSI (18.06.2015)