

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.06.2015

CORAM:

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

W.P. No.18523 of 2015  
and  
M.P. Nos.1 and 2 of 2015

The Kongu Polytechnic College  
represented by its Secretary, K.S. Senthil Kumar  
NH-7, Trichy Main Road  
Mallur, Salem

... Petitioner

vs.

1. The Director  
Directorate of Town and Country Planning  
Anna Salai, Chennai 600 002
2. The Member Secretary (I/c)  
O/o the Salem Local Planning Commission  
Salem
3. The President  
Ammabalaiyam Village  
Panamarathupatte Union  
Mallur, Salem

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorari, calling for the records in respect of the impugned order issued by the second respondent vide his proceedings in Na.Ka.No.648/2011 Sea Oo Thi Ku dated 13.02.2015 and quash the same.

For petitioner : Mr. E. Vijay Anand

For RR 1 & 2 : Mr. P.S. Sivashanmugasundaram  
Special Government Pleader

For R3 : Mr. R. Ravichandran  
Additional Government Pleader

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. R. Ravichandran, learned Additional Government Pleader, accepts notice for the third respondent. With the consent of the learned counsel for the parties, this writ petition is taken up final disposal, at the admission stage itself.

2. This writ petition is filed challenging the notice dated 13.02.2015 issued by the second respondent in Na.Ka.No.648/2011 Sea Oo Thi Ku, stating that in spite of opportunity having been given, the petitioner institution has not obtained the approved plan and therefore, the building in question will be locked and sealed.

3. The learned counsel appearing for the petitioner submits that the petitioner institution is 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 another<sup>1</sup> as well as the order of a learned Single Judge in Apesh Construction Ltd. vs. The Corporation of Madurai<sup>2</sup> and an unreported judgment dated 15.06.2012 passed in W.P. No.11031 of 2011, in support of his contentions.

4. In view of the contention of the petitioner/educational institution that it has obtained the approved plan from the competent local authority and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit its objections/representation qua the impugned notice dated 13.02.2015. It is stated by the learned counsel for the petitioner that the petitioner has already submitted a representation dated 20.05.2015.

5. In such view of the matter, the second respondent shall consider the petitioner's aforestated representation dated 20.05.2015 and pass appropriate orders in accordance with law and on merits, within a period of one week. Needless to state that each and every submission averred by the petitioner in its representation is to be adverted to and a reasoned order is required to be passed. Further,

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<sup>1</sup> 2013 WLR 925

<sup>2</sup> 2013 (2) CTC 180

it is made clear that while considering the petitioner's representation, the authorities are at liberty to examine as to whether the said local authority had competence to grant approval prior to 2010 also. Till fresh orders are passed by the second respondent, as stated supra, status quo as obtained today, in respect of the building of the petitioner/educational institution, shall be maintained by both the parties.

6. This writ petition is disposed of with the above direction. No costs. Connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

cad

To

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Directorate of Town and Country Planning  
Anna Salai, Chennai 600 002
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Salem
3. The President  
Ammabalaiyam Village  
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Mallur, Salem

+1cc to Mr.E.Vijay Anand, Advocate, S.R.No.31999

W.P. No.18523 of 2015

SR(CO)  
CA(08/07/2015)

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