

Z06IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.07.2015

CORAM:

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

W.P. No.19647 of 2015 and M.P. Nos.1 and 2 of 2015

Haji Sheik Ismail Polytechnic College,
rep. By its Correspondent S.Masthan Maraicar,
Esanoor, Keezhaiyur,
Thirukkuvalai 611 103,
Nagapattinam.

Petitioner

vs.

- 1 The Director,
Office of the Directorate of Town and Country Planning
Anna Salai, Chennai 600 002
- 2 The Deputy Director,
Office of the Deputy Director
of Town and Country Planning
Thanjavur Region, Thanjavur.
- 3 The President
Esanoor Village,
Thirukkuvalai,
Nagapattinam 611 103.

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 2nd respondent vide his proceedings in Na.Ka.No.546/2012/tha Ma, dated 11.08.2014 and quash the same.

For petitioner

Mr. E. Vijayanand

For respondents

Mr. P.S.Sivashanmugasundaram
Spl. Government Pleader - R1 to R3

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for respondents 1 to 3. With the consent of the learned counsel for the parties, this writ petition is taken up for final disposal, at the admission stage itself.

2 This writ petition is filed challenging the notice dated 11.08.2014 issued by the second respondent in Na.Ka.No.546/2012/Tha.Ma, 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 another¹ as well as the order of a learned Single Judge in Apesh Construction Ltd. vs. The Corporation of Madurai² 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 on 08.02.2008 and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit its objection/representation qua the impugned notice dated 11.08.2014. It is stated by the learned counsel for the petitioner that the petitioner has already submitted a representation dated 30.04.2015.

5 In such view of the matter, the second respondent shall consider the petitioner's aforesaid representation dated 30.04.2015 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, 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

¹ 2013 WLR 925

² 2013 (2) CTC 180

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

True Copy

Sub Assistant Registrar

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To

- 1 The Director,
Office of the Directorate of Town and Country Planning
Anna Salai, Chennai 600 002
 - 2 The Deputy Director,
Office of the Deputy Director
of Town and Country Planning
Thanjavur Region, Thanjavur.
 - 3 The President
Esanoor Village,
Thirukkuvalai,
Nagapattinam 611 103.
- 1 cc to Government Pleader.Sr.No.34009
1 cc to Mr.E. Vijayanand , Advocate Sr.No.34312

W.P. No.19647 of 2015

SAI (CO)
PMK.20.7.2015

सत्यमेव जयते

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