

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.08.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI
and
THE HON'BLE MR. JUSTICE K.K. SASIDHARAN

W.P. No.20402 of 2015
and
M.P. No.1 of 2015

Don Bosco Matriculation School
rep. By its Correspondent,
Ms. K. Saramma
No.8 Third Cross Street,
Mahakavi Bharathi Nagar,
Chennai 600 039.

... Petitioner

Vs.

1. The Government of Tamil Nadu
represented by its Deputy Secretary
Housing and Urban Development Department
Chennai 600 009.
2. Chennai Metropolitan Development Authority,
rep. By its Member Secretary,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai 600 008.
3. Corporation of Chennai,
rep. By its Commissioner,
Periyar E.V.R. High Road,
Chennai 600 003.
4. The Executive Engineer,
Zone VI (Old Zone No.IV),
Corporation of Chennai,
NO.28 Thiruvotriyur High Road,
Tondiarpet, Chennai 600 081.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus calling for the records of the 1st Respondent relating to Letter No. 25750/UD-VI (2) / 2013-4 dated 18.6.2015 and letter No.25750/UD-VI (2)/2013-5 dated 29.6.2015 and quash the same insofar as they insist upon submission of demolition and directing the 1st respondent to consider and pass orders on the Appeal of the petitioner dated 04.12.2013 as per the Regularisation Scheme without insisting upon the demolition of the building of the petitioner School.

For petitioner : Mr. K. Doraisamy
Sr. Counsel
for
M/s. Muthumani Doraisamy

For respondents : Mr. P.S.Sivashanmugasundaram
Spl. Govt. Pleader - R1
Mr. C. Johnson - R2
Mr. V.C. Selvasekaran - R3 & R4

ORDER

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

The instant writ petition is filed challenging the letter dated 18.06.2015 issued by the first respondent, whereby and whereunder, the petitioner has been directed to submit a demolition plan to rectify the violations in the school building and also the subsequent letter dated 29.06.2015 of the first respondent, granting two weeks' time to the petitioner to submit the demolition plan, as directed by letter dated 18.06.2015.

2. Questioning the legality and validity of the order dated 13.09.2013 passed by the second respondent, wherein, the application made by the petitioner for regularisation was rejected, the petitioner has preferred an appeal on 05.12.2013 before the Government. During the pendency of the said appeal, the impugned order was passed by the first respondent, directing the petitioner to submit a demolition plan to rectify the violations, as aforestated.

3. Learned counsel appearing for the petitioner submits that filing of an appeal is a statutory right. The admission of appeal by the appellate authority cannot be subject to the condition of filing

of a demolition plan by the petitioner. If the petitioner submits demolition plan, the very purpose of questioning the rejection order of regularisation shall stand defeated.

4. On the other hand, Mr. P.S.Sivashanmugasundaram, learned Special Government Pleader, submits that the pending appeal will be considered and decided in accordance with law and on its own merits, within a period of six weeks without insisting on compliance of the condition imposed in the impugned orders dated 18.06.2015 and 29.06.2015.

5. In view of the above said submission made by the learned Special Government Pleader, without expressing any opinion on the merits of the case, we direct the first respondent to consider and dispose of the petitioner's appeal dated 05.12.2013, in accordance with law and on its own merits, within a period of six weeks from the date of receipt of a copy of this order. In the meantime, the direction given to the petitioner to submit demolition plan shall remain in abeyance.

6. This writ petition is disposed of with the above direction and observation. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Secretary to Government,
Government of Tamil Nadu
Housing and Urban Development Department
Chennai 600 009.

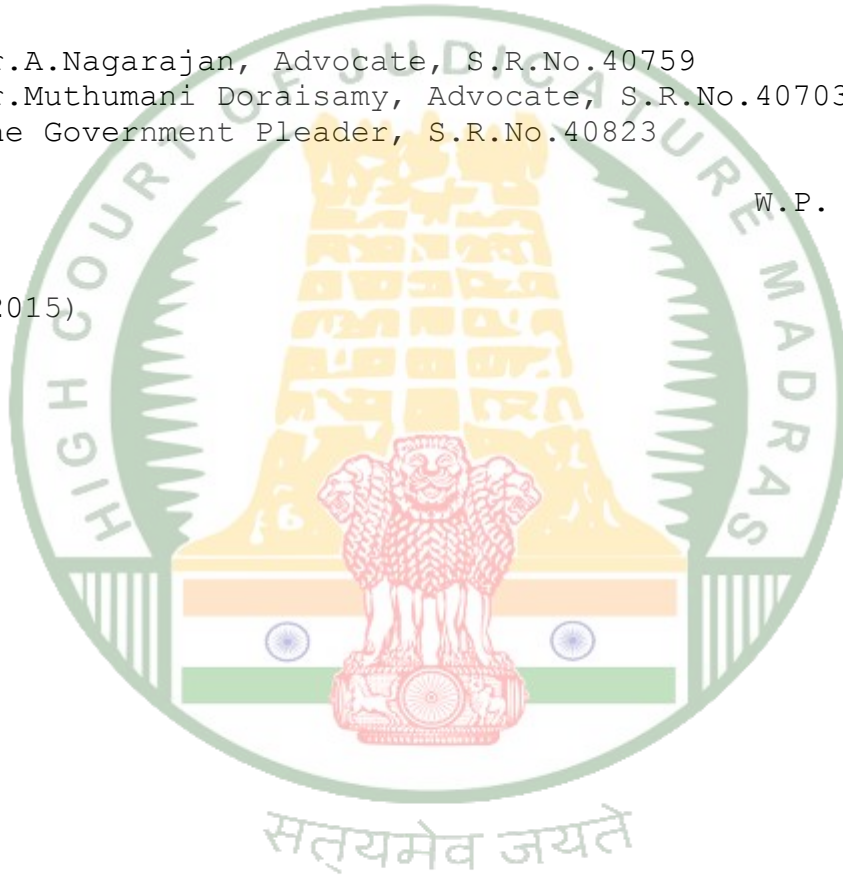
2. Chennai Metropolitan Development Authority,
rep. By its Member Secretary,
Thalamuthu Natarajan Maaligai,
Egmore, Chennai 600 008.

3. Corporation of Chennai,
rep. By its Commissioner,
Periyar E.V.R. High Road,
Chennai 600 003.
4. The Executive Engineer,
Zone VI (Old Zone No.IV),
Corporation of Chennai,
NO.28 Thiruvotriyur High Road,
Tondiarpet, Chennai 600 081.

+1cc to Mr.A.Nagarajan, Advocate, S.R.No.40759
+1cc to Mr.Muthumani Doraisamy, Advocate, S.R.No.40703
+1cc to the Government Pleader, S.R.No.40823

W.P. No.20402 of 2015

CNR(CO)
CA(14/08/2015)



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