

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.07.2015

CORAM:

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

W.P. No.20442 of 2015
and
M.P. Nos.1 & 2 of 2015

Muthayammal Polytechnic College
rep. By its Chairman Mr.T. Rahamthulla,
8/38 Kakkaveri, Attur Road,
Rasipuram Taluk, Namakkal District.

... Petitioner

vs.

1. The Director,
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,
Salem Region,
Salem.
3. The President,
Kakaveri Village,
Rasipuram Taluk,
Namakkal District.

... 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 Roc.No.1537/2014 SR-3, dated 12.02.2015 and quash the same.

For petitioner : Mr. E. Vijay Anand

For Respondents : Mr. P.S.Sivashanmugasundaram
Special Government Pleader - R1 & R2
Mr. S. Gunasekaran
Additional Government Pleader - R3

ORDER

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

Mr. P.S. Sivashanmugasundaram, learned Special Government Pleader, takes notice for the respondents 1 & 2. Mr. S. Gunasekaran, 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 for final disposal, at the admission stage itself.

2. This writ petition is filed challenging the notice dated 12.02.2015 issued by the second respondent in Roc No.1537/2014 SR-3, 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 04.11.2004 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 12.02.2015. It is stated by the learned counsel for the petitioner that the petitioner has already submitted a representation dated 28.04.2015.

1 2013 WLR 925

2 2013 (2) CTC 180

5. In such view of the matter, the second respondent shall consider the petitioner's aforesaid representation dated 28.04.2015 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 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 V)

//True Copy//

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To

Sub Assistant Registrar

1. The Director,
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,
Salem Region, Salem.
3. The President,
Kakaveri Village,
Rasipuram Taluk,
Namakkal District.

+1cc to Mr.E.Vijay Anand, Advocate, S.R.No.34556
+1cc to Mr.S.Gunasekaran, Advocate, S.R.No.34957

W.P. No.20442 of 2015

BVR(CO)
CA(27/07/2015)