

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.12.2015

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION NOS.30912 & 30913 OF 2015
& M.P.NO.1 OF 2015

M/s Preethi Feeds,
Partnership Firm,
Rep. by its Managing Partner Mr.S.Nedunchezian,
No.119, Araya Street, Koranad,
Mailaduthurai, Nagapattinam District. ... Petitioner in
both W.Ps.

Vs.

- 1.The Secretary, Department of Higher Education,
Secretariat, Fort St. George,
Chennai-600 009.
- 2.The Secretary, Department of
Matriculation School Education,
Secretariat, Fort St. George,
Chennai-600 009.
- 3.The Director of Matriculation School,
DPI Campus, College Road,
Nungambakkam, Chennai.
- 4.The Inspector of Matriculation Schools,
Government Boys Higher Secondary School Campus,
Tanjore-613 009.
- 5.The National Council for Teachers Education,
1st Floor-CSB-Building, H.M.I. Post,
Bangalore-560 031.

.. Respondents 1
to 5 in both W.Ps.

- 6.Thamarai Matriculation School,
Rep. by its Correspondent N.S.Kudiyarasu,
Main Road, Kalahasthinathapuram,
Sembaranarkoil, Tharangampadi Taluk,
Nagapattinam District.

.. 6th Respondent
in W.P.30912/2015

7.Kalaimagal B.Ed and D.T.Ed. College,
Kalaimagal Institutions, rep. by its
Correspondent K.Nedunchelian,
Main Road, Kalahasthinathapuram,
Sembaranarkoil, Tharangampadi Taluk,
Nagapattinam District.

.. 6th Respondent
in W.P.30913/2015

PRAYER: Petition in W.P.No.30912 of 2015 is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing respondents 3 and 4 not to grant approval for the establishment of new school proposed to be established by the 6th respondent adjacent to the petitioner's factory as the factory was established much prior to the construction of School Building.

PRAYER: Petition in W.P.No.30913 of 2015 is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the official respondents 1 to 5 to shift the existing college of the 6th respondent situated adjacent to the petitioners factory within around 65 meters of vicinity as the factory was established much prior to the construction of College Building and establishment of the college.

For Petitioner : Mr.U.Karunakaran
in both W.Ps.

For Respondents : Mr.S.Pattabiraman,
in both W.Ps. Government Advocate for R1 to R4

Mr.M.T.Arunan for R5

Mr.R.Thiagarajan, Senior Counsel
for Mr.R.N.Amarnath for R6

COMMON ORDER

The petitioner, who is said to be running a factory, has come forward to file these two writ petitions seeking direction to the official respondents viz., respondents 3 and 4 in W.P.No.30912 of 2015 not to grant approval for the e new school proposed to be established by the sixth respondent-School.

2. Incidentally, in W.P.No.30913 of 2015, the petitioner has sought for a direction to the official respondents 1 to 5 to shift the existing college of the 6th respondent situated adjacent to the petitioners factory within around 65 meters of vicinity as the factory was established much prior to the construction of College Building and establishment of the college.

3. The grievance of the petitioner is that if the 6th respondent school is permitted to run, it will result in the petitioner's factory being closed.

4. The law is quite settled when the power is available to the authority to decide, this Court shall not exercise the power under Article 226 of the Constitution of India by issuing direction to prohibit the authority from doing so.

5. Since these are all the matters for consideration by respondents 3 and 4, it is for the said authorities to take into consideration the factual situation while granting approval. Accordingly, the writ petition in W.P.No.30912 of 2015 is disposed of by directing the respondents 3 and 4 to pass appropriate orders on the approval application of the respondent No.6 within a period of six weeks from the date of receipt of a copy of this order after taking into consideration the relevant materials.

6. In view of the order passed in W.P.No.30912 of 2015, the writ petition in W.P.No.30913 of 2015 is also disposed of by giving liberty to the petitioner to approach the official respondents in this regard. As and when such representation is made, the official respondents shall look into the same and pass appropriate orders within a period of six weeks from the date of receipt of such representation. No costs.

Sd/-
Assistant Registrar(CS-II)

True Copy

Sub Assistant Registrar

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To

1.The Secretary, Department of Higher Education,
Secretariat, Fort St. George,
Chennai-600 009.

2.The Secretary, Department of
Matriculation School Education,
Secretariat, Fort St. George,
Chennai-600 009.

3.The Director of Matriculation School,
DPI Campus, College Road,
Nungambakkam, Chennai.

4.The Inspector of Matriculation Schools,
Government Boys Higher Secondary School Campus,
Tanjore-613 009.

5.The National Council for Teachers Education,
1st Floor-CSB-Building, H.M.I. Post,
Bangalore-560 031.

+1cc to Mr.M.T.Arunan, Advocate Sr.66976

+1cc to The Government Pleader Sr.66936

+2cc to R.N.Amarnath, Advocate Sr.66718, 66719

+2cc to Mr.U.Karunakaran, Advocate sr.67119[16/12/2015]

W.P.Nos.30912 & 30913 of 2015

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srg 14/12/2015



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