

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.02.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.22339/2013 & MP.No.1/2013

The Correspondent

Good Shepherd Higher Secondary School

Serapattu, Kalrayan Hills, [via]

Sankarapuram, Villupuram District 606401.

.. Petitioner

Versus

1.The Secretary

State of Tamil Nadu

Department of School Education,

fort St. George, Chennai 600 009.

2.The Director of School Education,

College Road, Chennai 600 006.

3.The Joint Director of School Education,

College Road, Chennai 600 006.

4.The Chief Educational Officer

Villupuram, Villupuram District.

5.The District Educational Officer

Villupuram, Villupuram District.

6.The District Educational Officer

Kallakurichi, Govt. Boys Higher

Secondary School Campus, Kallakurichi,

Villupuram District 606213.

..Respondents

*** R6 impleaded as per the order of this

Court vide order dated 19.09.2013

in MP.No.2/2013.

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorarified mandamus calling for the records relating to the impugned order issued by the 5th respondent District Educational Officer, in O.Mu.No.9896/Aa4/2011 dated 18.12.2012 [as signed], quash the same, insofar as it refuses to consider the petitioner's application for renewal of recognition to the school beyond December 2007 by insisting upon the petitioner to

transfer the landed properties in the name of the School by way of sale/lease/rent for a period of 30 years, and further direct the respondents to grant forthwith renewal of recognition to the petitioner school without insisting upon such transfer of land.

For Petitioner : Mr.Isaac Mohanlal
For RR 1 to 6 : Mr.S.Gunasekaran, GA

ORDER

Heard Mr.Isaac Mohanlal, learned counsel for the petitioner ; Mr.S.Gunasekaran, learned Government Advocate appearing for the respondents and perused the material available on record including the counter affidavit filed by the 6th respondent.

2.The petitioner is an Educational Institution and has challenged the proceedings dated 13.12.2012 passed by the District Educational Officer, Villupuram/the 5th respondent herein and presently, the 6th respondent is the jurisdictional officer.

3.The challenge to the impugned order is only with regard to paragraph 1 of the impugned order which states that the land in question should be registered in the name of the Institution or it should be leased out to the Institution for a period of 30 years. Insofar as clause 2 and 3 of the impugned order, the petitioner has complied with.

4.The petitioner/school was established in the year 1983 as a Middle School, upgraded as High School in 1986 and further upgraded as Higher Secondary School in the year 2002, The petitioner/school is a co-education institution having 22 teaching and 2 non-teaching staff and 813 students were studying in the said institution on the date when the writ petition was filed. The school has been established by the Church of South India [Kanyakumari Diocese] and the school was established after obtaining appropriate permission from the 2nd respondent, vide order dated 22.01.2003. The petitioner/school is situated in a campus measuring 12.43 acres in Serapattu village, Sankarapuram Taluk, Villupuram District. The entire extent of land is owned by the Church of South India Trust Association [Kanyakumari Diocese] which is an Educational Agency for the school. The said educational agency has also given a certificate dated 22.01.2010 stating that the entire extent of land where the school has been established, has been set apart for the petitioner/school.

5.The petitioner would contend that the educational agency is a company incorporated u/s.25 of the Indian Companies Act and the properties are owned by the said company and the property in which the petitioner/school has been established, has been set apart

exclusively for the petitioner/school and the educational agency, being the owner of the land, has granted due permission and the authorities were fully satisfied and thereafter only, the approval was granted and to insist upon the ownership by the petitioner/school at the stage of renewal of recognition is arbitrary and illegal. In support of the said contention, the petitioner placed reliance on an unreported decision of the Madurai Bench of this Court made in WP. [MD].No.12933/2012 [M/s.Subbulakshmi Lakshmipathy Foundation rep. by its President Vs. The State of Tamil Nadu rep. by its Secretary, Dept., of School Education, Fort St. George, Chennai-9 and others] dated 24.01.2013.

6.A counter affidavit has been filed by the 6th respondent, viz., the District Educational Officer, Kallakurichi, wherein it has been admitted that the petitioner/school is being run by Church of South India Association [Kanyakumari Diocese] and it has been granted minority status under the provisions of the Act and Rules.

7.The short issue which falls for consideration of this Court is as to whether the respondents 5 and 6 are justified in refusing to extend recognition granted to the petitioner/school solely on the ground that the property does not stand in the name of the petitioner/school. Admittedly, the land has been in the name of the educational agency, which has established and is administering the petitioner/school. The petitioner/school has been recognised as a minority institution and granted protection under the provisions of the Act and Rules and as envisaged under Article 30[1] of the Constitution of India. Some of the identical circumstances arose for consideration before this Court in M/s.Subbulakshmi Lakshmipathy Foundation's case [cited supra], wherein also the school was run by an educational agency which is registered as a company u/s.25 of the Companies Act. The Department insisted that the School should own the land. However, the contention was not accepted by this Court and it was pointed out that insofar as the petitioner therein, there is no allegation that in the same campus, showing the same property, the same educational agency is running two or more schools. So long as there is no such finding and so long as it is admitted that only one school is located in the campus having land extent adequate to run a school and once it is found that the property is owned by the educational agency, the requirement of execution of lease deed in favour of the school or committee does not arise.

8.The decision rendered by the Madurai Bench of this Court in the decision cited supra is squarely applicable to the case on hand. In the instant case also, there is an allegation that in the extent of land, the educational agency has established more than one school. In such circumstances, the question of insisting upon the execution of lease deed in favour of the institution as called for in clause [1] of the impugned order does not arise.

9. Accordingly, the writ petition is allowed and the impugned order passed by the 5th respondent District Educational Officer, in O.Mu.No.9896/Aa4/2011 dated 18.12.2012 insofar as clause [1] is quashed. The respondents are directed to consider the petitioner's application for renewal of recognition in accordance with law, if it is found to be otherwise in order and pass orders on merits within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

Dated:26.2.15

True Copy

Sub Assistant Registrar

To

- 1.The Secretary
State of Tamil Nadu
Department of School Education,
fort St. George, Chennai 600 009.
- 2.The Director of School Education,
College Road, Chennai 600 006.
- 3.The Joint Director of School Education,
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- 4.The Chief Educational Officer
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- 6.The District Educational Officer
Kallakurichi, Govt. Boys Higher
Secondary School Campus, Kallakurichi,
Villupuram District 606213.

+1 cc to Government Pleader, SR.8441.

rv(co)

krd 4/3

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