



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :23.09.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P (MD) .No.17249 of 2015

ST.Aloysius Higher Secondary School,
Represented by its Correspondent,
Rev. Fr.S.Leon Henson,
Chayakkaranparappuvilai,
Christu Nagar,
Nagercoil - 629003,
Kanyakumari District.

...Petitioner

Vs.

1.The Director of Town and Country Planning,
807, Anna Salai,
Chennai - 600 002.

2.The Commissioner,
Nagercoil Municipality,
Kanyakumari District.

3.The Member Secretary,
Local Planning Authority,
11-A, Raman Pillai Street,
Ramavarmapuram,
Nagercoil - 629 001.

4.The Director of School Education,
College Road, Chennai - 600 006.

5.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

6.The District Educational Officer,
Thuckalay,
Kanyakumari District.

...Respondents

This Writ Petition has been filed under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the first respondent to consider and dispose of the appeal, dated 08.09.2015 submitted by the petitioner's school situated at Door No.214/2, New Survey No.G-2/106, Chayakaran Parappuvilai, Vettoorni Madam, Nagercoil, Kanyakumari District for grant of approval of the School Building Plan within a stipulated period.

For petitioner

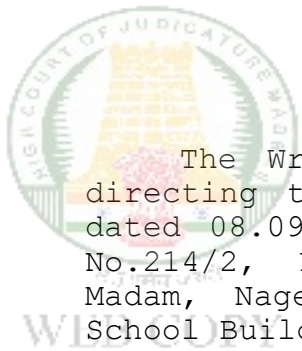
:Mr.N.Dilip Kumar

For R-1 & R-3 to R-6

:Mr.K.Guru,

Special Government Pleader

:Mr.Aathimoolapandian

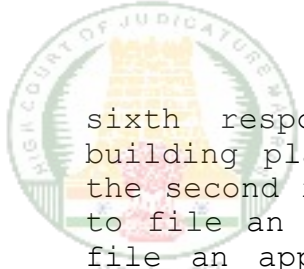
ORDER

The Writ Petition has been filed praying for a Writ of Mandamus directing the first respondent to consider and dispose of the appeal, dated 08.09.2015 submitted by the petitioner's school situated at Door No.214/2, New Survey No.G-2/106, Chayakaran Parappuvilai, Vettoorni Madam, Nagercoil, Kanyakumari District for grant of approval of the School Building Plan within a stipulated period.

2. Mr.K.Guru, learned Special Government Pleader takes notice for the respondent Nos.1 & 3 to 6 and Mr.Aathimoolapandian, learned counsel takes notice for the second respondent.

3. By consent, the Writ Petition itself is taken up for final disposal.

4. It is averred in the petition that the petitioner Institution was started in the year 1917 and the petitioner school was a primary school up to the year 1961 and thereafter, due to the increase in the students strength, infrastructure of the school was developed and since the school building was a very old one with thatched constructions, reconstruction was done and foundation stone was laid on 07.04.1995. On 01.06.1997, the petitioner school was upgraded as High School and thereafter, on 01.06.1999, the school has been recognized as self financing educational institution up to eighth standard. During the year 1989, school building was raised to two floors and in the year 2001-2002, the classes for 9th and 10th standard was recognized and in the same year, the petitioner school has achieved 100% results in the public examination. Thereafter, the school management decided to expand the school infrastructure by making an additional construction and immediately construction was carried out and the building was raised to four floors and the construction of the school building was completed in the year 2008 and the building plan was submitted to the second respondent for approval in the year 2009 as per the Tamil Nadu District Municipalities Act and Building Rules 1972 and necessary fess was also paid for the same vide receipt No.9101338, dated 22.04.2009. But the second respondent refused to give approval for the building plan and returned the same vide his proceedings in Ka.vi.No.634/09/F3, dated 04.05.2009 under Section 203 of the Tamil Nadu District Municipalities Act and further, the second respondent intimated the petitioner to prefer an appeal against the said order under Rule 19 of the Tamil Nadu District Municipalities and Building Rules 1972. While the matter stood thus, in the year 2013-2014, after complying with all the necessary formalities the petitioner school has applied for recognition to upgrade the High School to the Higher Secondary School and made a requisition for grant of recognition as per the Rules for the Recognition of Higher Secondary Schools as set out in G.O.Ms.No.587 Education Department, dated 22.03.1978. But recognition has not been given by the fifth respondent stating that the building is an unauthorized one. In fact, the Tahsildar, Agasteeswaram has issued a building licence to the petitioner school on 01.12.2014 for the period 01.06.2014 to 31.05.2017 and structural soundness certificate has also been issued by the Approved panel Engineer and a Sanitary Certificate for the educational institution has also been issued by the Municipal Health Officer, Nagercoil and no objection certificate has also been issued by the Fire Service Department, Nagercoil. Hence, on 14.07.2015 the sixth respondent herein issued an order to the fifth respondent stating that building plan approval is not mandatory for recognition for the course of Higher Secondary. In spite of the clarification given by the



sixth respondent, the fifth respondent is still insisting for the building plan approval. Since the building plan approval was refused by the second respondent on 04.05.2009, the petitioner school was instructed to file an appeal. But, the then correspondent did not take steps to file an appeal. Subsequently, there was change in the correspondent. Thereafter, appeal was filed before the first respondent with condone delay petition. But the same was not disposed of so far. Hence, the petitioner has come forward with the present Writ Petition for the above stated relief.

5. The only contention raised by the learned counsel for the petitioner is that if the petitioner school building plan is approved by the first respondent herein by allowing the appeal dated 08.09.2015 then, the fifth respondent is ready and willing to grant a recognition for the Higher Secondary Course to the petitioner school and hence, a direction may be issued to the first respondent to dispose of the appeal filed by the petitioner, dated 08.09.2015, within a stipulated time.

6. Considering the submissions made by the learned counsel for the petitioner, without going into the merits of the averments made in the Writ Petition, this Court directs the first respondent to consider the appeal filed by the petitioner, dated 08.09.2015 by taking note of all the documents annexed along with the appeal papers and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order by affording opportunity of personal hearing to the petitioner. It is made clear that this Court has not expressed any opinion on the merits of the claim made by the petitioner and it is for the first respondent to consider the same purely on merits.

With the above direction, the Writ Petition is disposed of. No Costs.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar.

To

- 1.The Director of Town and Country Planning, 807, Anna Salai, Chennai - 600 002.
 - 2.The Commissioner, Nagercoil Municipality, Kanyakumari District.
 - 3.The Member Secretary, Local Planning Authority, 11-A, Raman Pillai Street, Ramavarmapuram, Nagercoil - 629 001.
 - 4.The Director of School Education, College Road, Chennai - 600 006.
 - 5.The Chief Educational Officer, Nagercoil, Kanyakumari District.
 - 6.The District Educational Officer, Thuckalay, Kanyakumari District.
- +1CC to Mr.N.Dilip Kumar, Advocate, SR.No. 56357
+1CC to The Special Government Pleader SR.No. 56382

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