

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.04.2016

CORAM :

THE HONOURABLE MR. JUSTICE R.SUBBIAH

W.P.No.12174 of 2016

Shahinsha Khaja Mainudeen
Correspondent
Fathima Nursery and Primary School
No.50, Elamai Yakkinar Koil Street,
Chidambaram,
Cuddalore District.

... Petitioner

Vs.

- 1.The Director of Elementary Education
College Road,
Chennai-6.
- 2.District Elementary Education Officer
Cuddalore District,
Cuddalore.
- 3.Assistant Elementary Education Officer
Kumaratchi
Cuddalore District.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus to direct the second respondent to consider and dispose the application for renewal of the recognition of the petitioner's school which was submitted lastly on 11.09.2015.

For Petitioner : Mr.A.Muthukumar

For respondents : Mr.M.Dig Vijay Pandian, AGP.

ORDER

With the consent of both sides, the Writ Petition is taken up for final disposal.

2.The petitioner has come forward with the present Writ Petition seeking for issuance of Mandamus to direct the second respondent to consider and dispose the application for renewal of the recognition of the petitioner's school which was submitted lastly on 11.09.2015.

3.The petitioner is running a Nursery and Primary school for the past several years, the school is being run in the name of petitioner's sister in law. The revenue authorities also renewed the recognition continuously. The second respondent in his proceedings dated 05.05.2010 renewed the recognition from LKG to V standard. The said recognition was granted 20years back and it has been periodically renewed by the second respondent.

4.While so, one Lalkhan Pallivasal had complained to the second respondent that the school building belonged to them and on the strength of such complaint, the second respondent issued a letter dated 23.05.2014 calling upon the petitioner to produce the documents to prove the property belong to the school, in the said letter it is informed that if the title documents relating to the property is not produced, recognition would be cancelled. Immediately the petitioner informed the second respondent in his letter dated 26.06.2014 stating that OS.No.71 of 2014 has been filed on the file of District Munsif, Chidambaram against the Executive Officer, Lalkhan Pallivasal, Chidambaram and three others and obtained an order of Interim Injunction on 22.04.2014 restraining the respondents his men and agents in interfering with the petitioner's peaceful and enjoyment of the suit property till the disposal of the suit.

5.In this circumstances, the second respondent sent a communication dated 18.07.2014 and demanded the following certificates for renewal of recognition. They are as follows :

1. Sanction Certificate.
2. No objection Certificate from the Fire services.
3. Building stability certificate from the District Collector's Recognized Engineer
4. Building ownership Certificate from Tahsildar.

6.The second respondent by its proceedings dated 10.09.2014 reiterated the demands dated 18.07.2014 and in the said communication, it is stated that the stability of the building and sanitation are not up to the norms.

7.In the meanwhile, the third respondent in its proceedings dated 09.09.2014, returned the documents and application submitted for renewal of recognition on the ground that the petitioner have not signed some of the papers in the application besides rectification of the defects pointed out by the 3rd respondent during his personal inspection on 31.07.2014. The petitioner resubmitted the papers before the 3rd respondent on

15.09.2014 with specific endorsement that the site of building in which the school building situated belongs to the petitioner as per the judgment of the Sub Court, Cuddalore passed in Inam Abolition Tribunal (I.A.T.) Appeal No.137/1978 dated 13.06.1983 and informed that all the class rooms are separately divided by raising permanent walls and further informed that sanitation certificates, no objection certificates from the fire services, building stability certificate and other documents pertaining to the title of the property were already produced. The 3rd respondent in his proceedings dated 28.10.2014 returned the papers submitted for renewal of recognition on two grounds i.e, (i)for production of title deeds and patta for the site in which the school building stands and (ii)for construction of permanent walls in between the class rooms. The petitioner replied to the second respondent on 23.12.2014 stating that as per the direction of the 3rd respondent all the documents required for renewal of recognition were already submitted and permanent walls have also been raised in between the classrooms and there is no impediment for renewal of recognition of the school and informed that all the documents are lying before the 3rd respondent.

8.The documents required for recognition of the school were already produced before the respondents 2 and 3. In order to prove the title of the property, the order of the Assistant Settlement Officer, Cuddalore in its proceedings in RP.No.3524 to 3532/MI/CHI/70 (R) IATA.No.4/1974 and the order of the Sub Court, Cuddalore in IATA.No.137/1978 was produced. The properties are governed by the Tamil Nadu Minor Inam Abolition Act, the proceedings of the Settlement Officer and the orders passed by the Inam Abolition Tribunal are title deeds. As per the provisions of the Act, the site vests in the Government for the purpose of granting patta to the occupants. The petitioner's grand father Azeezudin occupied the property 70years back and the settlement officer has held as per the Act, the petitioner's grandfather was entitled to patta for the said lands. The Inam Abolition Tribunal as per its order dated 13.06.1983 held that the building vested in favour of the occupant, the said order of the Inam Abolition Tribunal in Appeal No.137/1978 has become final and therefore the said order will be binding on all, including the Lalkhan Pallivasal.

9.The Inam Abolition Tribunal has held as early as on 13.06.1983, the occupants are entitled for patta, but the Government has not granted patta. The petitioner instituted OS.No.114 of 2014 on the file of the District Munsif, Chidambaram against the Government of Tamil Nadu. The said suit is pending before the Sub Court, Cuddalore. The petitioner has submitted the title deeds i.e, the orders passed by the settlement officer and Inam Abolition Tribunal before the respondents 2 and 3.

10.The petitioner filed WP.No.2317 of 2015 before this Court for issuance of certiorarified mandamus for quashing the order of the second respondent and for consequential directions. This Court by an order dated 17.02.2015 quashed the order of the second respondent and directed the petitioner to submit fresh application for grant of renewal of recognition of the school with all documents enclosed and further directed to check all the documents and grant approval within six weeks from the date of receipt of the application. Pursuant to the said order the petitioner submitted a fresh application with all requisite documents to the 3rd respondent. The third respondent returned the said application and the documents by RPAD on 28.07.2015. Thereafter, the petitioner submitted the said papers before the second respondent through RPAD on 11.09.2015 along with a representation, the same is received on 12.09.2015 by the second respondent. But till date the second respondent has not considered the same, hence, the petitioner filed the present writ petition.

11.Heard the submissions of learned counsel appearing for the petitioner and the learned Additional Government Pleader who accepts notice on behalf of the respondents.

12.Considering the facts and circumstances and without going into the merits of the same, this Court directs the second respondent to consider the representation of the petitioner dated 11.09.2015 for renewal of recognition, on merits and in accordance with law, within a period of six weeks, from the date of receipt of a copy of this order, after affording opportunity of personal hearing to the petitioner as well as to the necessary parties, if any. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner.

13.The writ petition is disposed of accordingly. No costs.

Sd/-

Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

To

1.The Director of Elementary Education
College Road,
Chennai-6.

2.The District Elementary Education Officer
Cuddalore District,
Cuddalore.

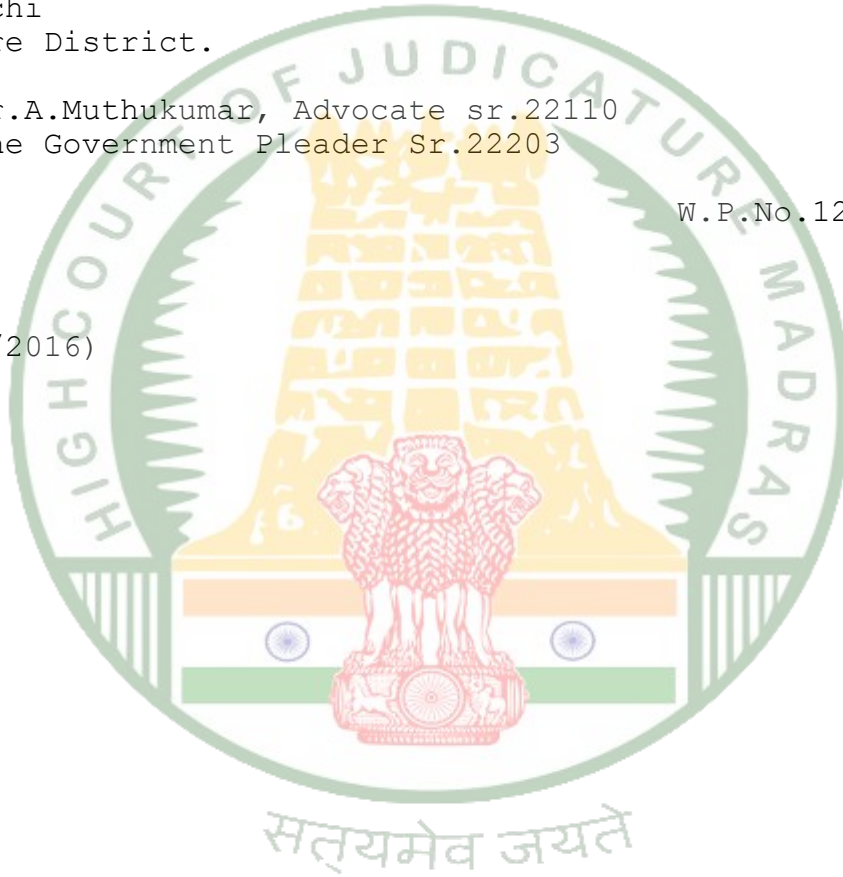
3.The Assistant Elementary Education Officer
Kumaratchi
Cuddalore District.

+1cc to Mr.A.Muthukumar, Advocate sr.22110

+1cc to the Government Pleader Sr.22203

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msm(CO)
srg(28/04/2016)



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