

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.04.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.13256 of 2016

Selva Matric Higher Secondary School,
Chennai Bye-pass Road,
BRG Madhepalli-Post,
Barugur-635 104
Krishnagiri District,
Rep. by its Correspondent G.Selvaraj

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.

2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the second respondent to pass appropriate orders for renewal of recognition of the petitioner-School based on the application submitted on 05.02.2016 in the light of the orders passed in W.P.(MD).No.20329 of 2014 and the orders passed in Contempt Petition in Cont.Pet.(MD).No.1391 of 2015, dated 30.11.2015, within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.P.Sanjay Gandhi, Addl.G.P.

ORDER

The petitioner has filed this Writ Petition praying for issuance of a Writ of Mandamus to direct the second respondent to pass appropriate orders for renewal of recognition of the

petitioner-School based on the application submitted on 05.02.2016 in the light of the orders passed in W.P.(MD). No.20329 of 2014 and the orders passed in Contempt Petition in Cont.Pet.(MD).No.1391 of 2015, dated 30.11.2015, within a time frame to be fixed by this Court.

2. The affidavit in support of the Writ Petition is sworn to by the Correspondent of the petitioner-School stating that the School had been established by Selva Education Trust in 2007 with the object of imparting education to the rural poor and downtrodden; the School was granted permission and temporary recognition for Standards 1 to 7 as per the proceedings of the second respondent, dated 02.07.2007. The recognition was granted for Standards 8 and 9 in 2008; for Standard 10 in 2009 and further for Standards 11 and 12 in 2010. The School has complied with all legal requirements with reference to infrastructure and instructional facilities as per the provisions of the Matriculation Code. The period of recognition for the School is being renewed every three years. Last of such recognition of the School was renewed as per the proceedings of the second respondent, dated 10.12.2014 with one of the condition that the petitioner-School should produce the plan approval of the School building obtained from the Director of Town and Country Planning (DTCP). The petitioner-School forwarded the application enclosed with all requisite documents including land document, plan approval, public building licence, Sanitary Certificate, No Objection Certificate from Fire and Rescue Department, Structural Stability Certificate, etc.

3. It is further stated that the petitioner-School has been established in the rural area coming under the Village Panchayat limits and the School is constructed as per the provisions of the Tamil Nadu Panchayats Act. As per the Tamil Nadu Panchayat Building Rules, the Village Panchayat President is the competent authority to grant approval for construction. As per the Rules, it is required for the Executive Authority of the Village Panchayat to consult the Director/Deputy Director of Town and Country Planning. Hence, it is an internal arrangement between the Panchayat President and DTCP for getting concurrence from the DTCP. Accordingly, the Panchayat President issued the plan approval in favour of the petitioner-School based on which the School building is constructed without any deviation.

4. It is also stated that in a similar case, a Writ Petition came to be filed before the Madurai Bench of this Court in W.P.(MD).No.20329 of 2014, wherein orders are passed on 06.04.2015 holding that the Department cannot insist upon the building plan approval to be approved by the Joint Director or Deputy Director of Town and Country Planning. Since the

Executive Authority, viz., Panchayat President approved the building plan, the action of the petitioner cannot be faulted with in any manner or as against the provisions of law. Therefore, the respondents therein were directed to consider for granting permanent recognition to the petitioner-School.

5. Challenging the said order, dated 06.04.2015, Writ Appeal in W.A.(MD).No.911 of 2015 came to be filed by the Department, wherein, judgment was rendered on 18.08.2015, in which, the order of the learned single Judge in W.P.(MD).No.20329 of 2014 was modified to the effect that the application of the School therein for recognition should be considered in the parameters of various guidelines issued by the Government and in the light of the decision of the Supreme Court reported in 2007 (6) SCC 398 (Avinash Mehrota Vs. Union of India) and after getting clarification from the concerned Panchayat or from the Town and Country Planning Authorities, whether building plan approval has been granted to the School as required under law and the School should be informed about the status, so that they can work out their remedy. Subsequently, Contempt Petition came to be filed by the School therein, in Contempt Petition (MD).No.1391 of 2015, wherein orders were passed on 30.11.2015 with further clarification that unless and until the DTCP informs the Director of Matriculation Schools that Rule 25 of the Tamil Nadu Panchayat Building Rules, was not followed, the respondent therein (Department) shall not deny the renewal of recognition for the next year and this will be subject to the compliance with the order conditions for the grant of renewal.

6. Hence, it is the grievance of the petitioner that the application for renewal of recognition of the School will have to be considered by the respondents, without insisting upon the plan approval from the DTCP as stated in the order of recognition, dated 10.12.2014. The application submitted by the School is kept pending on the ground that the School has to submit the plan approval from the DTCP. In spite of the fact that the School complied with all the legal requirements without any deviation, the application for renewal of recognition has not been considered and even though there are orders of this Court as stated above. Hence, the petitioner has come forward with this Writ Petition for the above relief.

7. Heard both sides.

8. Taking into consideration the above orders of this Court, the relevant Rules, the relevant Government Orders/guidelines, etc., and also taking into account the factual aspects of the matter and taking note of the fact that the avowed object of the petitioner-School is to impart

education for the poor and needy, that too in the rural areas, this Court, without going into the merits of the case, directs the second respondent to consider the application for renewal of the recognition of the petitioner-School submitted on 05.02.2016 in the light of the orders passed in W.P.(MD).No.20329 of 2014, dated 06.04.2015 and the orders passed in Cont.Petn.(MD).No.1391 of 2015, dated 30.11.2015, afford an opportunity of hearing to the concerned authorities of the petitioner-School and other necessary parties, if any, pass appropriate orders, on merits and in accordance with law and dispose of the said application within a period of eight weeks from the date of receipt of a copy of this order. The petitioner is also directed to produce necessary documents in support of their claim for renewal of their recognition, based on which, the second respondent shall pass appropriate orders, as directed above. It is made clear that this Court has not expressed any opinion on the merits of the claim of the petitioner-School and it is for the second respondent to decide the same based on available records and hearing the petitioner.

9. With the above observations and directions, the Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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Copy to

1. The Principal Secretary to Government,
The State of Tamil Nadu,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.
2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.

+1 cc to The Government Pleader, Sr.23484
+1 cc to Mr.G.Sankaran, Advocate, sr.23308

W.P.No.13256 of 2016

kk co
kra 03.05.2016