

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2016

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Writ Petition No.13727 of 2016

Avichi College of Arts and Science
rep. by its Secretary
C/o. A.V.M.Rajeswari Educational Trust

... Petitioner

vs.

1.The Secretary to Government,
Higher Education (E1) Department,
Fort St. George,
Chennai 600 009.

2.The Director of Collegiate Education,
DPI Compound, Chennai 600 006.

3.The Regional Joint Director of
Collegiate Education,
Chennai Region,
Saidapet, Chennai 600 015.

.... Respondents

Writ petition has been filed under Article 226 of the Constitution of India, praying for a Writ of mandamus, directing the respondents to consider and pass orders on the proposal/application submitted by the petitioner dated 15.05.2015 for starting Avichi College of Arts & Science for the Academic Year 2016-17 without insisting on the documents set out in Clauses (1), (6) and (7) of the letter of the second respondent dated 14.03.2016, if the petitioner college is otherwise eligible by grant of permission in accordance with law within time stipulated by this Court.

For Petitioner : Mr.K.Shakespeare
For Respondents : Mrs.P.Rajalakshmi, GA

ORDER

The petitioner has come up with the present writ petition for a mandamus, directing the respondents to consider the proposal/application submitted by the petitioner dated 15.05.2015 for starting Avichi College of Arts & Science for the Academic Year 2016-17, without insisting on the documents

set out in Clauses (1), (6) and (7) of the letter of the second respondent dated 14.03.2016, if the petitioner college is otherwise eligible and to grant permission in accordance with law within the time stipulated by this Court.

2. The case of the petitioner as averred in the writ petition is as follows:

2.1 One AVM Rajeswari Educational Trust (herein after referred to as 'Educational Agency') made an application for establishment of Avichi College of Arts and Science in the year 2012. The said application was rejected on the ground that the land, in which, the petitioner college is going to be established, was a leasehold land and the Educational Agency has not complied with the rule relating to ownership of the land, as per G.O.Ms.No.356 Higher Education Department dated 29.09.2009.

2.2 Later on, the Government issued a G.O.Ms.No.84 Higher Education (E1) Department dated 24.04.2015, wherein the applicant, having 99 years lease hold right of 2 acres of land, is eligible to apply seeking permission to establish a self financing college. Therefore, the Educational Agency made an application dated 15.05.2015 in prescribed format seeking permission to establish the petitioner College for the Academic Year 2015-16 to the Government through competent authority. The second respondent, after scrutiny of the application, sent a letter, pointing out certain deficiencies to the Educational Agency, which inturn rectified all the deficiencies and requested the second respondent to consider their proposal.

2.3 Subsequently, the Tahsildar, Mambalam Taluk inspected the land, in which the petitioner college is to be established. Thereafter, the second respondent issued a letter of Intent dated 28.12.2015, enclosing Check list for processing the application for establishment of the petitioner college. Accordingly, the Educational Agency submitted necessary documents as stated in the check list on 07.01.2016.

2.4 In the mean while, the petitioner by letter dated 09.01.2016 enclosed an application form of the Tamil Nadu Power Finance and Infrastructure Development Corporation Limited and called upon the second respondent to make a deposit receipt for Rs.20,00,000/- in the joint names of the Educational Agency and the second respondent. On 12.01.2016, the second respondent returned the said application form duly signed. The Educational Agency remitted the inspection fee on 12.01.2016 and deposited a sum of Rs.20,00,000/- on 13.01.2016.

2.5 Thereafter, on 25.01.2016, the Educational Agency furnished all the documents as sought for by the second respondent in his letter dated 07.01.2016 and requested the third respondent to make inspection and submit recommendation

for establishing the petitioner college. On receipt of the same, an inspection team consisting of (i)Regional Joint Director of Collegiate Education, Chennai Region, (ii)Principal, Government Arts and Science College, Nandanam and (iii)Executive Engineer, PWD, inspected the petitioner College on 27.01.2016. Further, the District Revenue Officer, Chennai District carried out the inspection on 08.02.2016. Apart from the above authorities, the Tahsildar, Mambalam Taluk, already conducted inspection on 25.09.2015.

2.6 While so, the second respondent by letter dated 14.03.2016, adverting to the letter of the first respondent dated 17.02.2016, called upon the Educational Agency to furnish certain documents to consider their proposal for establishing the college for the Academic year 2016-17. Accordingly, by letter dated 11.04.2016 the Educational Agency submitted all the documents except the following documents:

(i) Certificate under section 37(B) of Tamil Nadu Land Reforms (Land Fixation and Ceiling) Act, 1961;

(ii) Proceedings of Corporation of Chennai according planning and building permit on 02.12.1982 and 03.03.1983 respectively for putting up building for Avichi School; and

(iii) Permission from CMDA and Corporation of Chennai to use building of Avichi School for functioning Avichi College of Arts and College.

2.7 According to the Educational Agency, they are unable to furnish those documents to the second respondent for the following reasons:

(i)No private college in State of Tamil Nadu is now issued with certificate under section 37(B) by the competent authority;

(ii)The proceedings of the Corporation of Chennai is not readily available, as it related to 1982-83, though sanctioned plan containing the planning and building permit endorsement is available; and

(iii)Neither the Corporation of Chennai nor CMDA is empowered to accord permission for an Educational Agency to have its college functioning in a building, where erstwhile school was functioning.

2.8 Even after receipt of the letter dated 11.04.2016 along with necessary documents, except above mentioned three documents, there was no response with regard to the permission sought for by the petitioner. Therefore, the present writ petition came to be filed for the above stated relief.

3. Heard the learned counsel for the petitioner and the learned Government Advocate, who took notice for the respondents.

4. Considering the facts and circumstances of the case, this Court directs the second respondent to consider the letter dated 11.04.2016, by affording an opportunity of personal hearing to the petitioner Educational Agency and pass appropriate orders with regard to grant of permission to start the petitioner College for the Academic Year 2016-17. It is made clear that this Court is not expressing any opinion with regard to the merits of the claim made by the petitioner and it is for the second respondent to pass appropriate orders purely on merits and in accordance with law. The entire exercise shall be completed within a period of six weeks from the date of receipt of a copy of this order.

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

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

To

- 1.The Secretary to Government,
Higher Education (E1) Department,
Fort St. George,
Chennai 600 009.
- 2.The Director of Collegiate Education,
DPI Compound, Chennai 600 006.
- 3.The Regional Joint Director of
Collegiate Education,
Chennai Region,
Saidapet, Chennai 600 015.

+ 1 cc to Mr.K.Shakespeare, Advocate SR 27460

+ 1 cc to Govt.Pleader SR 26849

pa(co)
prk1/6

W.P.No.13727 of 2016