

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.1714 of 2016 &
WMP No.1488 of 2016

Takko Matriculation School
rep.by its Correspondent
Mr.C.Deenathayalapandian

.. Petitioner

vs.

The Director of Matriculation Schools
Directorate of Matriculation Schools
DPI Campus, Chennai 600 006.

.. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus, to call for the records pertaining to impugned order Na.Ka.No.3495/A1/2015 dated 29.12.2015 on the file of the respondent and quash the same as illegal and unconstitutional and consequently direct the respondent to grant permanent recognition of Petitioner School from LKG to X standard.

For Petitioner : Mr.Ramakrishnan Viraraghavan

For Respondent : Mr.A.N.Thambidurai
Special Govt.Pleader

O R D E R

Heard Barrister Ramakrishnan Viraraghavan, learned counsel appearing for the petitioner and Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondent. With the consent of the learned counsel appearing on either side, the Writ Petition itself is taken up for final disposal.

2.The petitioner which is a Matriculation School, has filed this Writ Petition, challenging the order passed by the Director of Matriculation Schools dated 29.12.2015, wherein the petitioner's Application for extension of recognition already

granted has been returned on two grounds.

3.The first ground being the list of documents does not contain the details of land in Survey No.38/1E and the second ground pointed out is that the petitioner has not obtained DTCP approval.

4.In fact, when the petitioner made a representation earlier, they had referred to a decision of the Hon'ble Division Bench in the case of THE DIRECTOR OF MATRICULATION SCHOOLS v. KAVIAN SCHOOL, REP.BY ITS CORRESPONDENT, [2015-5-L.W.101] (W.A. (MD.) No.911 of 2015). The respondent, while passing the impugned order, stated that there is no positive directions in the said Judgment of the Hon'ble Division Bench to grant renewal of recognition.

5.With regard to the first deficiency pointed out regarding the Survey Number, the learned counsel for the petitioner would submit that necessary rectification has been made in the documents and the petitioner would produce the documents before the authority and satisfy the authority of due compliance in this regard.

6.The said submission is placed on record.

7.The second aspect would be as to whether the petitioner can be compelled to obtain DTCP approval and whether there is need for such approval.

8.This issue is no longer res integra and has been decided by the Hon'ble Division Bench in the case relating to KAVIAN SCHOOL. In fact, that decision was further clarified when the Contempt Petition was filed by the said KAVIAN SCHOOL, in Cont.P.No. 1391 of 2015, for wilful disobedience of the Judgement in the Writ Appeal. While clarifying the issue, it was held as follows:

" 6.There is no denial of the fact that the prior consultation with the Director of Town and Country Planning was made mandatory only under Rule 25 of the Tamil Nadu Panchayats Buildings Rules, which reads as follows:

" 25.Multi-storeyed and public buildings.-- Every person intending to construct, reconstruct, add to or alter any public building other than Government building shall follow the provisions of the Multi-Storeyed and Public building Rules, 1973 issued under the Tamil Nadu District Municipalities Act, 1920 (Tamil

Nadu Act V of 1920);

Provided that the executive authority shall not grant approval for construction, reconstruction, addition or alteration of any such building without consulting the concerned Joint Director of Deputy Director of Town and Country Planning. "

7.Once the panchayat has clarified that the permission was granted as per the said rule, it cannot be expected that the petitioner should get further confirmation from the Directorate of Town and Country Planning.

8.Therefore, we clarify even while closing the contempt petition that unless and until the Directorate of Town and Country Planning particularly informs the Director of Matriculation Schools the Rule 25 extracted above was not followed, the respondent shall not deny the renewal of recognition for the next year. Of course, this will be subject to the compliance with the other conditions for the grant of renewal."

9.In the light of the above order, unless and until the Director of Town and Country Planning informs the Director of Matriculation Schools that Rule 25 of the Tamil Nadu Panchayat Building Rules were not followed, the respondent is not entitled to deny the renewal of recognition for the next year. However, no such averment has been found in the counter affidavit filed by the respondent. All that they stated is that specific direction has not been issued by the Hon'ble Division Bench in the case of KAVIAN SCHOOL, however, the same has been clearly clarified in the Contempt Petition that the Hon'ble Division Bench in the subsequent order in the Contempt Petition, arising out of the Writ Appeal, which has been referred to above.

10.In the light of the above, the condition imposed by the respondent stating that the petitioner should produce DTCP, is quashed. So far as the contention relating to the Survey Number 38/1E, is concerned, the matter is remanded to the respondent for fresh consideration, who shall consider the Rectification Deed dated 03.03.2016, executed in favour of the School, registered as Registration Document No. 8/2016, on the file of Sub Registrar, Nambiyur and pass orders for granting renewal of recognition, within a period of four weeks from the date of receipt of a copy of this order.

The Writ Petition is allowed to the above extent. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

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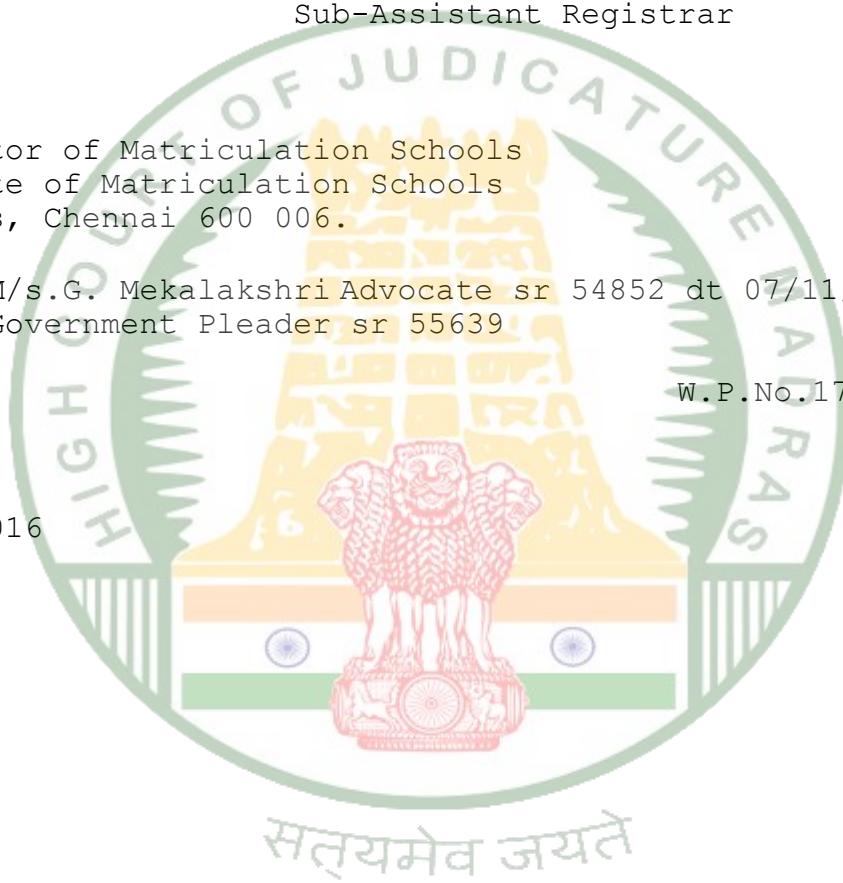
Sub-Assistant Registrar

rpa
To
The Director of Matriculation Schools
Directorate of Matriculation Schools
DPI Campus, Chennai 600 006.

+2 cc to M/s.G. Mekalakshri Advocate sr 54852 dt 07/11/2016
+1 cc to Government Pleader sr 55639

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