

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:31.03.2016

Coram:

The Honourable Mr.SANJAY KISHAN KAUL, CHIEF JUSTICE
and
The Honourable Mr.Justice M.M.SUNDRESH

W.P.No.6776 of 2016

Pondicherry Bharathiyar Palkalai Koodam
Staff Association represented by its Secretary,
S.Elumalai,
Bharathiyar Palkalai Koodam,
Ariyankuppam, Puducherry 605 007. ... Petitioner

-Versus-

1.The Union of India,
represented by the Chief Secretary to Government of Puducherry
Puducherry.

2.The Secretary to Government
Arts and Culture, Government of Puducherry
Puducherry.

3.The Secretary to Government
Public Works Department,
Puducherry.

4.The Secretary to Government,
Department of Revenue and Disaster Management,
Puducherry.

5. The Executive Engineer,
Public Works Department
Buildings and Roads (North Division)
Government of Puducherry,
Puducherry.

6.Bharathiyar Palkalai Koodam Society
rep. By its Vice Chairman
Ariyankuppam
Puducherry.

7.All India Council for Technical Education
represented by its Registrar,
Chandralok Building,
Janpath, New Delhi 110 001.

8.Pondicherry University
represented by its Registrar,
Kalapet, Puducherry.

9.The Director of Art and Culture,
Government of Puducherry,
Puducherry

.. Respondents

Petition filed under Article 226 of the Constitution of India praying for the issue of a writ of Declaration, declaring the action of the respondents 1 to 6 in divesting the part of the land in R.S.No.41/1, Ariyankuppam Revenue Village, belonging to the 6th respondent society by putting up MLA's Office (Civil Station) as illegal and consequently direct the respondents 1 to 6 to restore the land to the 6th respondent society for its use and occupation.

For Petitioner ::: Mr.Bharatha Chakravarthy

For Respondents::: Mr.M.Govindarajan
Government Pleader (Pondy) for
R.1 to R.6 and 9.

O R D E R

(The Order of the Court was made by The Hon'ble
The Chief Justice)

This Public Interest Litigation has been filed by the Pondicherry Bharathiyar Palkalai Koodam Staff Association alleging that they are the employees of the 6th respondent/society, the institution stated to be imparting Bachelor Degree in the field of Fine Arts recognised by the All India Council for Technical Education (AICTE). The AICTE norms require educational institutions to own a minimum of 10 acres of land and therefore, 10.5 acres of land in R.S.No.41/1 of Aryankuppam Village was acquired for the purpose of establishing the 6th respondent/institution by Award No.4 of 1989. It is alleged that now, part of the land measuring about two acres is proposed to be utilized to construct the MLA's Office (Civil Station) within the campus of the institution. This area is stated to be supported by a combined wall and tender was awarded on 19.10.2015 for construction of the same.

2. The aforesaid is stated to be an illegal act of the respondents, apart from the fact that it could endanger the very existence of the institution on its failure to meet the AICTE norms.

3. The counter affidavit filed by the respondents suggests that a total of 4.3 hectares of lands were originally allotted, which is more than 10.6 acres as required under the AICTE norms. More than ten acres is stated to be still reserved for institution. But a decision was taken to construct a Civil Station in 0.5 acres of surplus land in order to house all the Government Offices in one place for the benefit of citizens and it would in no manner cause hindrance to the institution. It is stated that it was on a representation made for constructing a centralized building to accommodate Education Department, Women and Child Welfare department, Revenue Department, Electricity Department and Public Works Department in order to provide all the facilities under one umbrella, it was proposed and resolved in the presence of the Deputy Collector Revenue (South), Director of Education Department, Director of Survey and Land Records, Commissioner of Hindu Religious Institution and Chief Engineer, Superintending Engineer, Executive Engineer of Public Works Department to construct the Civil Station. Thus, the apprehension of the petitioner is stated to be misplaced and it is assured to the Court other than 0.5 acres, no area of land would be utilized for the Civil Station assuring that the institution has the benefit of 10.1 acres.

4. We may notice certain additional documents filed by the petitioner obtained through the RTI Act in respect of the subject matter, which seeks to suggest that when the file was put up to the Secretary concern, he had queried on 18.01.2016 as to whether the Public Works Department had adopted the new process for transfer of lands from the institution. In this behalf, on examination, it has been found that the office concerned has not received any proposal for transfer of land for construction of the Civil Station and the PWD was also asked to address in this behalf. There is also a communication from respondent No.6/institution stating that no prior intimation is received towards transfer of land and that the land belongs to the institution.

5. In our view, the aforesaid shows that it is mandatory to ensure that all legal formalities are adhered to qua transfer of lands first, otherwise there may be difficulty in future, if there is any objection to the transfer of lands de hors the issue of requirement of the 6th respondent. We would have expected that these formalities to be completed first as opined in the note aforesaid and thus, the utilization of this area for the construction of Civil Station should be preceded first by all necessary formalities being completed.

6. The writ petition accordingly stands disposed of, leaving the parties to bear their own costs.

ksr

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1.The Union of India,
represented by the Chief Secretary to Government of Puducherry
Puducherry.

2.The Secretary to Government
Arts and Culture, Government of Puducherry
Puducherry.

3.The Secretary to Government
Public Works Department,
Puducherry.

4.The Secretary to Government,
Department of Revenue and Disaster Management,
Puducherry.

5. The Executive Engineer,
Public Works Department
Buildings and Roads (North Division)
Government of Puducherry,
Puducherry.

6.Bharathiyar Palkalai Koodam Society
rep. By its Vice Chairman
Ariyankuppam
Puducherry.

7.All India Council for Technical Education
represented by its Registrar,
Chandralok Building,
Janpath, New Delhi 110 001.

8.Pondicherry University
represented by its Registrar,
Kalapet, Puducherry.

9.The Director of Art and Culture,
Government of Puducherry,
Puducherry.

+ 1 cc to M/s.Sai, Bharath, & Ilan, Advocate Sr 20347

+ 1 cc to Office of the Govt.Pleader for Puducherry, Sr 20431

KR/15/4/16

W.P.No.6776 of 2016



WEB COPY