



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED 28.06.2016
CORAM
THE HONOURABLE MR.JUSTICE M.VENUGOPAL

WEB COPY

W.P (MD) No.9703 of 2016
and
W.M.P (MD) No.7712 of 2016

T.K.S.Good Shepherd Public School,
represented by its Correspondent,
Dr.T.K.Sathiyaseelan.

..Petitioner

Vs

1.The Director of School Education,
D.P.I.Compound,Nungambakkam,
Chennai.

2.The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus directing the Respondents 1 and 2 to grant forthwith the No Objection Certificate for the establishment of the Petitioner's School without insisting on Plan and Approval from the Department of Town and Country Planning, within the time frame fixed by this Court.

For Petitioner :M/s.V.M.Balamohan Thampi

For Respondents :Mr.V.Muruganandam
Addl.Govt.Pleader

ORDER

Heard both sides.

2.By consent of both sides, the main Writ Petition itself is taken up for final disposal.

3.No counter is filed on behalf of the Respondents.

4.According to the Petitioner/School, it started functioning from the year 2013 and applied before the Second Respondent for issuance of 'No Objection Certificate' on 16.06.2015 under the CBSE Guidelines for approval/affiliation. In fact, the Petitioner made an application on 16.06.2015 to the Respondents with all necessary documents and in reality, the Petitioner sent a proposal to the CBSE praying for the grant of approval/affiliation.



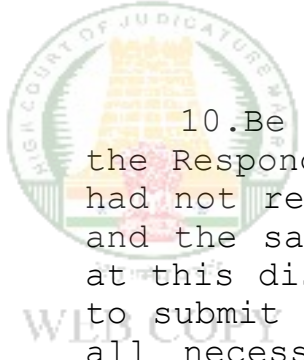
5.The stand of the Petitioner is that the Respondents had not taken any action to issue 'No Objection Certificate' on the basis of its application, dated 16.06.2015 and further, it has sent a reminder to the Respondents on 23.05.2016 through Registered Post and after receiving the same, the Respondents orally directed it to obtain the Plan and Approval from the Department of Town and Country Planning.

6.The real grievance of the Petitioner is that the State Government's 'No Objection Certificate' is a pre-condition for CBSE Regulation and any delay in regard to the grant of 'No Objection Certificate' would delay the grant of recognition of the CBSE and the delay in this regard would be detrimental to the interest of institution as well as to the students. Hence, the Petitioner has filed the present Writ Petition praying for passing of an order by this Court in directing the Respondents 1 and 2 to grant forthwith 'No Objection Certificate' for the establishment of the Petitioner's School without insisting for Plan and Approval from the Department of Town and Country Planning.

7.Per contra, it is the submission of the learned Additional Government Pleader appearing for the Respondents that the Petitioner had submitted only a Manuscript letter in two pages on 23.05.2016 to the Second Respondent by stating a wrong information, as if he had submitted a detailed proposal on 16.06.2015 in person before the Second Respondent at his office. It is further represented that in reality, no such proposal was received by the Second Respondent from the Petitioner either in person or through Registered Post. The Learned Additional Government Pleader brings it to the notice of this Court that the Second Respondent in proceedings in Na.Ka.No.4092/Aa3/2016, dated 03.06.2016 had informed the factum of non-receipt of Petitioner's letter, dated 16.06.2015 and requested to submit necessary proposal to the Office for taking necessary action. In fact, it is the core contention advanced on behalf of the Respondents that the Petitioner is not entitled to invoke the jurisdiction of this Court under Article 226 of the Constitution of India.

8.At this stage, the Learned Counsel for the Petitioner submits that the Petitioner's Correspondent had addressed a letter, dated 23.06.2016 to the Second Respondent stating that the necessary documents for recognition of the Petitioner/School are being sent and enclosed nearly six documents mentioned therein.

9.The primordial stand projected on behalf of the Respondents is that the Second Respondent had not received any letter/proposal, dated 16.6.2015 and this particular fact was informed to the Petitioner as per communication, dated 3.6.2016 of the Second Respondent. Also that, on an earlier occasion, the Petitioner's Correspondent had addressed a letter to the Second Respondent praying for issuance of 'No Objection Certificate'.



10. Be that as it may, in view of the fact that on the side of the Respondents since a stand is taken that the Second Respondent had not received the proposal of the Petitioner, dated 16.6.2015 and the same being disputed/denied on the side of the Petitioner, at this distant point of time, this Court directs the Petitioner to submit a fresh proposal to the Second Respondent together with all necessary documents in a complete and comprehensive manner within a period of ten days from the date of receipt of a copy of this order and to seek appropriate remedy for redressal of its grievance in the manner known to Law and in accordance with Law. If such proposal is received by the Second Respondent from the Petitioner with all requisite documents/records, then it is incumbent on the part of the Second Respondent to look into the same and to pass a reasoned speaking order on merits(of course by outlining the process of reasoning in a qualitative and quantitative fashion) within a period of four weeks thereafter. The Second Respondent shall pass the order in question with an open, free, unbiased mind and that too, in a dispassionate manner, within the time adumbrated by this Court. It is needless for this Court to make a significant mention that the Petitioner/School is required to render its assistance and co-operation to the Second Respondent to do the needful in the subject-matter in issue.

11. With the aforesaid observations and directions, the Writ Petition stands disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

Sd/-
Assistant Registrar (AS)

/True Copy/

Sub Assistant Registrar (CS)

To

1. The Director of School Education,
D.P.I.Compound, Nungambakkam, Chennai.
2. The Chief Educational Officer,
Tirunelveli, Tirunelveli District.

+1cc to Mr.V.M.Balamohan Thampi, Advocate, Sr.No.33929
+1cc to the Special Government Pleader, Sr.No.33896

vsn
JM/SK-SKN/SAR-III/05.07.2016/3P-5C

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and

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