

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2017

CORAM

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

WRIT PETITION NO.7824 of 2017
and W.M.P.No.8556 of 2017

M/s.RTM Real Estates,
A Partnership Firm
Represented by its Partnership
Mrs.Lalitha Rama Devan,
No.17/35, 2nd Main Road,
Gandhi Nagar, Adyar - 600 020.

...Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Erwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.

...Respondents

Prayer: The writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the respondents to process the revised planning permission application of the petitioner under file No.INST/2017/000045-1 dated 23.01.2017 for construction of G+3 floor school building which is pending before 2nd respondent as per the Existing Development Control Rules and Regulations without insisting to implement Hon'ble Justice Sampath Committee recommendation.

For Petitioner : Mr.S.Sundaresan

For Respondents : Mr.R.A.S.Senthivel
Additional Government Pleader
(For R1)

Mr.P.Tamilmani (For R2)

O R D E R

This writ petition has been filed for issuance of writ of Mandamus, directing the respondents to process the revised planning permission application of the petitioner under file

No.INST/2017/000045-1 dated 23.01.2017 for construction of G+3 floor school building which is pending before 2nd respondent as per the Existing Development Control Rules and Regulations without insisting to implement Hon'ble Justice Sampath Committee recommendation.

2.Though the petitioner was granted permission for ground + two floors, a revised application was filed seeking permission for ground + three floors. In other words, the petitioner seeks permission for third floor as against the earlier one which was upto only second floor. The said revised application of the petitioner dated 11.01.2017 is still kept pending in File No.INST/2017/000045-1 dated 23.01.2017. Apparently, it is kept pending based upon the circular notice issued by the Member Secretary dated 19.01.2016 which came into existence pursuant to the letter received from the Director of School Education.

3.This Court in W.P.No.1610 of 2017 dated 23.03.2017 has already held that Regulation No.25(7) would govern the field as against the circular. The following paragraph of the aforesaid order would oppose it.

"4.In the counter affidavit filed by the second respondent, it has been stated as follows:

6.I respectfully submit that earlier as per Development Regulations (DR) Stilt + 4 floors or Ground + 3 Floors for school building was permitted. Now, all PPA for school building are being processed with reference to Hon'ble Justice Sampath Commission Report, due to a letter received from Director of School Education in Letter No.001720/G1/S4/2016 dated 11.02.2016 and also circular notice issued by Member Secretary dated 19.01.2016.

7.I respectfully submit that it is an actual information as per DR 25 Table (7) Institutional Buildings of Second Master Plan 2026. Earlier as per DR Stilt + 4 Floors or Ground + 3 Floors for school building was permitted. Now, all PPA for school building are being processed with reference to Justice Sampath Commission Report, a letter also received from Director of School Education in letter No.001720/G1/S4/2016 dated 11.02.2016 and accordingly a Circular Notice issued by Member Secretary dated 19.01.2016.

5.In view of the aforesaid position, this Court is of the view that the writ petition deserves to be allowed. A mere circular or letter of an authority, who was not concerned with the approval of the

planning permission, cannot override the statutory regulations. As long as Regulation 25(7) is in force in the statute, the petitioner cannot be denied permission to put up the third floor subject to other compliance.

6. In such view of the matter, the writ petition stands allowed by directing the respondents to process the revised planning permission application of the petitioner dated 26.07.2016 in the light of the discussions made above and take necessary action within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed."

4. In view of the aforesaid order, the respondents are directed to process the revised planning permission application filed by the petitioner in the light of the same and as per law and do the needful within a period of six weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst. Registrar (CS II)

/true copy/

Sub Asst. Registrar

cse

To

1. The Secretary to Government,
Housing and Urban Development Department,
Fort St. George, Chennai - 600 009.

2. The Member Secretary,
Chennai Metropolitan Development Authority,
No.1, Gandhi Erwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 600 008.

+1cc to Mr.P.Tamilmani (sr.36392)

+1cc to Government Pleader sr.26398

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rv(co)
ss(4/5/2017)