

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22-09-2017

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.22009 of 2017

and

W.M.P.Nos.23064 & 23065 of 2017

The Secretary and Correspondent,
Dr.Zahir Hussain Memorial Minority High School,
Tmt.A.M.Sikkandhar Bevi School Campus,
Pillaiyarnatham, Pithalaipatti Post,
Dindigul-2.

... Petitioner

Vs

- 1.The State of Tamil Nadu
Rep. by its Secretary to Government,
Education Department,
Fort St., George,
Chennai - 600 009.
- 2.The Joint Director of School Education,
(Higher Secondary)
College Road,
Chennai-6.
- 3.The Chief Educational Officer,
Palani Salai,
Dindigul-10.
- 4.The District Education Officer,
Karur Salai,
Dindigul -10

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India for issuance of writ of certiorarified mandamus, calling for the entire records connected with the impugned order passed by the 2nd respondent in Na.Ka.No.029680W4/E2/2017, dated 03.08.2017 and quash the same and consequently direct the respondents to upgrade the Petitioner's High School as Higher Secondary School.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mr.V.Anandhamoorthy
Additional Government Pleader

O R D E R

The petitioner school has been established in the year 1971 and thereafter, it has been upgraded as middle school and high school in the year 1987-88. Thereafter, the school got bifurcated as elementary school and High School. Many rural students are benefited by the School. The petitioner applied for upgradation of High School as Higher Secondary School as early as in the year 2005. However, the proposal sent by the petitioner was returned on 17.06.2006 and again on 31.10.2007. The petitioner school has got all infrastructure and approved plan, building license issued by Tahsildhar, sanitary certificate issued by the Deputy Director of health Service, No Objection Certificate from the Fire Service and Electricity Board along with the stability certificate with Form A, B, C, D were also submitted.

2.Though, from the year 2008 onwards the 3rd and 4th respondents have been recommending upgradation, the 2nd respondent had rejected the proposal on the ground that the school has only 2.60½ acres of land and 3 more acres of land is required for opening the Higher Secondary School. Subsequently, the petitioner got more than 4 acres by way of lease. After many attempts, with the recommendation of the 4th and 5th respondents, a proposal was sent to the 2nd respondent, who again rejected the said proposal, which was challenged before this court in W.P.No.21223 of 2011. This Court by order dated 13.06.2012, had disposed of the writ petition with a direction to the petitioner to take certain steps for construction of two additional class rooms and further directing the official respondents to make inspection and pass appropriate orders.

3.Thereafter, based on the inspection made on 03.07.2012, an order was passed on 24.07.2012, rejecting the proposal stating that additional building have not been constructed and 5 more class are necessary for teaching, apart from establishment of lab and lab materials. The said order was challenged before this court in W.P.No.22099 of 2012 and this Court by order dated 19.04.2017, directed the Director of School Education to consider the recommendation of the District Educational Officer with regard to the upgradation of the school.

4. Again on 18.05.2017, the 4th respondent had recommended the 3rd respondent for upgradation, who in turn had forwarded the proposal dated 15.06.2017 to the 2nd respondent. The 2nd respondent, however by an order dated 03.08.2017 rejected the proposal for upgradation stating that there is no approved plan and there is no enough drinking water facilities. The said order is being challenged before this Court.

5. Heard, Mr.S.N.Ravichandran, learned counsel appearing for the petitioner and Mr.V.Anandhamoorthy, learned Additional Government Pleader for the respondents.

6. It is seen from the records that the petitioner has been trying their level best to upgrade the school. It is not a new school and it has been established in the year 1971 and catering the needs of the rural students. Periodically it has been upgraded as Middle School, High School and only for Higher Secondary School, the school has been fighting from the year 2005 onwards. Though earlier upgradation proposals were justifiably returned due to certain shortcomings, the present impugned order has been passed without considering the documents filed, based on the two main reasons viz., there is no approved plan for the building and there is no enough drinking water facilities available in the school. The approved plans have been submitted by the learned Counsel for the petitioner. Though, it has been stated that there is no approved plan, the very same authority have granted temporary recognition from 22.12.2015 to 21.12.2018, by an order dated 21.01.2017. There is no cause for the respondent to ignore the said approved plan, whereas the approved plan has been taken note of while granting temporary recognition. Hence, the reason given by the 2nd respondent by is unbounded.

7. As far as, water facility is concerned, it is not the case of the petitioner that there is no water facility at all, but the water facilities have to be improved. It is stated by Mr.S.N.Ravichandran, learned Counsel appearing for the petitioner that the water facilities available is more than enough and there is no complaint either by students or by the parents. In any event, he would submit that even more facilities would be made available. In view of the same, this Court is of the view that for hyper technical reasons, the proposal for upgradation should not be rejected. Hence, the impugned order is set aside.

8. The respondent is directed to pass appropriate orders to upgrade the school as Higher Secondary School for the academic year 2017-18. It is made clear that the petitioner shall convert the asbestos sheet as Madras terrace or RCC roof before May 2018 or remove the asbestos and not to use the building. If

the asbestos are not removed by May 2018, it is open to the respondent to take appropriate action against the petitioner. The upgradation order has to be passed on or before 31.10.2017.

9. With the above directions, this writ petition is disposed. Consequently connected miscellaneous petitions are closed. No costs.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

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College Road, Chennai-6.
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- 4.The District Education Officer,
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+1cc to Mr.S.N.Ravichandran, Advocate, S.R.No.70060
+1cc to Mr.V.Anandhamoorthy, Advocate, S.R.No.70896

W.P.No.22009 of 2017

MR(CO)
CA(05/10/2017)

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