

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06-06-2017

CORAM

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

W.P.No.13457 of 2017
and W.M.P.No.14509 of 2017

Musthafa Matriculation School,
No.402, Musthafa Nagar,
Boothakeni,
Chidambaram Taluk,
Cuddalore District
Rep by its Correspondent
S.M.M.Anwar Ali,
S/o.Sheik Mohammed Musthafa ... Petitioner

-Vs-

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
 2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
 3. The Inspector of Matriculation Schools,
Cuddalore Region,
Cuddalore.
- सत्यमेव जयते Respondents

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents to pass orders for granting permission of upgradation of Petitioner School with Higher Secondary sections and for granting of renewal of recognition based on the proposal represented on 12.05.2017 in the light of orders passed by this court in Cont.Petn(MD).No.1391 of 2015 dated 30.11.2015 and W.A (MD). No.279 of 2016 dated 22.02.2016 for the first point and in the light of orders passed in W.P.No.1267 of 2010 dated 25.06.2010 and W.A. No. 1641 of 2010 dated 07.09.2010 in respect of second point raised in the proceedings of 3rd respondent in O.Mu.285/E1/2015 dated 30.09.2016 (served on 10.05.2017), within a time frame to be fixed by this court.

For Petitioner : Mr. G. Sankaran
For Respondents : Mr. V. Anandhamurthy
Additional Government Pleader

O R D E R

This Writ Petition has been filed seeking for a direction to the respondents to pass orders for granting permission of upgradation of Petitioner-School with Higher Secondary sections and for granting of renewal of recognition based on the proposal re-presented on 12.05.2017 in the light of orders passed by this court in Cont.Petn.(MD).No.1391 of 2015 dated 30.11.2015 and W.A (MD).No.279 of 2016 dated 22.02.2016 for the first point and in the light of orders passed in W.P.No.1267 of 2010 dated 25.06.2010 and W.A. No. 1641 of 2010 dated 07.09.2010 in respect of the second point raised in the proceedings of 3rd respondent in O.Mu.285/E1/2015 dated 30.09.2016 (served on 10.05.2017), within a time frame to be fixed by this court.

2. The case of the petitioner is that the petitioner-School applied for upgradation of School as Higher Secondary School with Standards 11 and 12 on 02.06.2016 and they have enclosed all the particulars and documents with reference to the infrastructural facilities and other statutory certificates including the plan approval granted by the Executive Authority of Village Panchayat. The said application was returned by the third respondent as per the the proceedings in O.Mu.285/E1/2016 dated 30.09.2016 stating that DTCP approval was not obtained and for running the School in the Panchayat area, the School should be located in three acres composite land.

3. The further case of the petitioner is that a Writ Petition came to be filed before the Madurai Bench of this Court in W.P.(MD)No.20329 of 2014, wherein, it is held that the Department cannot insist upon the building plan approval from the Joint Director or Deputy Director of Town and Country Planning. Since the Executive Authority, viz., Panchayat President has approved the building plan, the act of the petitioner cannot be faulted with in any manner, more particularly, it cannot be said that it is against the provisions of law and this Court had directed the respondent therein to grant permanent recognition to the petitioner-School therein. Aggrieved by the same, a Writ Appeal was filed by the Department in W.A.(MD)No.911 of 2015, wherein, the order of the learned single Judge was modified to the effect that the application of the School for recognition should be considered after getting clarification from the concerned Panchayat or Town and Country Planning Authorities. Thereafter, a Contempt Petition was filed in Cont.Pet.(MD).No.1391 of 2015, wherein, it

is held that unless and until the Director of Town and Country Planning particularly informs the Director of Matriculation Schools that Rule 25 of the Tamil Nadu Panchayat Buildings Rules, was not followed, the respondent shall not deny the renewal of recognition for the next year.

4. So far as the present case is concerned, the petitioner-School has complied with all the legal requirements and there is no deviation with reference to the Regulations under Matriculation Code. In this regard, the Government issued orders in G.O.Ms.No.73, School Education Department dated 22.04.2017 for granting recognition to the existing schools upto 31.05.2018 and for submission of plan approval from DTCP/LPA/CMDA in the meantime.

5. With regard to the point that the School should be located in the composite land of three acres in Village Panchayat, this Court, by order dated 25.06.2010 in W.P.No.1267 of 2010, had directed the respondents therein to consider the claim for grant of recognition that the playground is located 400 metres away from the School, which could be construed as close to the School as required in the Government Order and the same was confirmed in W.A.No.1641 of 2010, by order dated 07.09.2010. The orders passed in the Writ Appeal was duly confirmed by the Hon'ble Supreme Court on 22.01.2012 in S.L.P (Civil).No.1338 of 2011.

6. In this regard, the petitioner-School herein has sent a detailed representation 12.05.2017 meeting out the requirements as stated in the communication by the third respondent dated 30.09.2016. However, the respondents have not considered the said representation. Since the petitioner-School is in dire need of upgradation with Higher Secondary Sections, they were constrained to file the present writ petition.

7. Heard the learned counsel for the petitioner and the learned counsel for the respondents.

8. Considering the facts and circumstances of the case and also considering the submissions made by the learned counsel appearing on either side and also in the light of the orders passed by this Court in Cont.Petn(MD)No.1391 of 2015 dated 30.11.2015 and W.A.(MD).No.279 of 2016 dated 22.02.2016 and also in the light of orders passed in W.P.No.1267 of 2010 dated 25.06.2010 and W.A.No.1641 of 2010 dated 07.09.2010, the respondents are directed to pass orders based on the proposal re-presented on 12.05.2017, within four weeks from the date of receipt of the copy of this order.

9. This Writ Petition is disposed of with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

srn

To

1. The Principal Secretary to Government,
State of Tamil Nadu,
School Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Director of Matriculation Schools,
DPI Campus, College Road,
Chennai - 600 006.
3. The Inspector of Matriculation Schools,
Cuddalore Region,
Cuddalore.

+1cc G.Sankaran, Advocate sr.40848

+1cc to Government Pleader sr.40300

सत्यमेव जयते

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and W.M.P.No.14509 of 2017

ss(15/6/2017)

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