

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.18029 of 2015

and M.P.No.1 of 2015

Sri Subash Arts & Science College
Sangampalayam Village, Pollachi Taluk,
Coimbatore District,
Rep.by its Correspondent
S.Karthikeyan.

Petitioner

vs

1. The State rep. by its
Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 600 009.
2. The Directorate of Collegiate Education,
D.P.I. College Road,
Chennai - 600 006.

Respondents

PRAYER : Writ petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the second respondent in and by its proceedings in Na.Ka.No.20961/R4/2014 dated 15.9.2014 and quash the same and consequently direct the respondents to permit the petitioner college to hold 5 acres of land instead of 10 acres as per G.O.Ms.No.40, Higher Education Department dated 28.02.2014.

For Petitioner : Mr.L.Chandrakumar
for Ms.P.T.Rama Devi

For Respondents : Mr.P.Sanjay Gandhi
Addl. Govt. Pleader

O R D E R

The Petitioner college was established during the year 2008 - 2009. At the time of getting permission for commencement of the College, as per the Government Order in G.O.Ms.No.356, Higher Education dated 29.09.2009, the total requirement of land

for starting a new self-financing College in Village Panchayat was 10 Acres. Since the petitioner fulfilled the said requirement by having 10 acres of land, permission was granted by the respondents for starting the Arts College. Subsequently, the Government had taken a policy decision by which G.O.Ms.No.40 Education Department dated 28.02.2014 was issued prescribing 5 acres of land as against 10 acres of land for establishing Arts and Science College in Village Panchayat. Based on the said G.O. the petitioner seeks to restrict 10 acres of lands, which the petitioner has exhibited and got approval, to 5 acres of land. The said request has been rejected by the respondents. Hence, the order of rejection is being challenged before this Court.

2. Heard Mr.L.Chandrakumar, learned counsel appearing for the petitioner and Mr.Sanjay Gandhi, learned Special Government Pleader appearing for the respondents.

3. A perusal of the impugned order would show that G.O.Ms.No.40 Education Department dated 28.02.2014 is effective from the date of issuance namely, it would have application prospectively and not retrospectively covering the petitioner, as the petitioner college has already been approved as early as 2008 - 2009. Hence, the respondents are right in rejecting the petitioner's contention stating that G.O.Ms.No.40 Education Department dated 28.02.2014 would have prospective application and not retrospective application. Therefore, G.O.Ms.No.40 Education Department was passed, taken into consideration the scarcity of urban land available for opening of Colleges. However, the said ground cannot be applicable to the Colleges which have already got recognition, after procuring the lands and as such, scarcity of lands cannot be a ground for the petitioner to hold 5 acres of land instead of 10 acres as per G.O.Ms.No.40, Higher Education Department dated 28.02.2014.

4. If the contention of the petitioner has to be accepted, this will open a flood-gate and many institutions which adhered the old G.O.s would come out with similar plea, as sought by the petitioner which is not in the interest of the student as well as the society. Therefore, the writ petition fails.

5. In the result, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Asst.Registrar (J)

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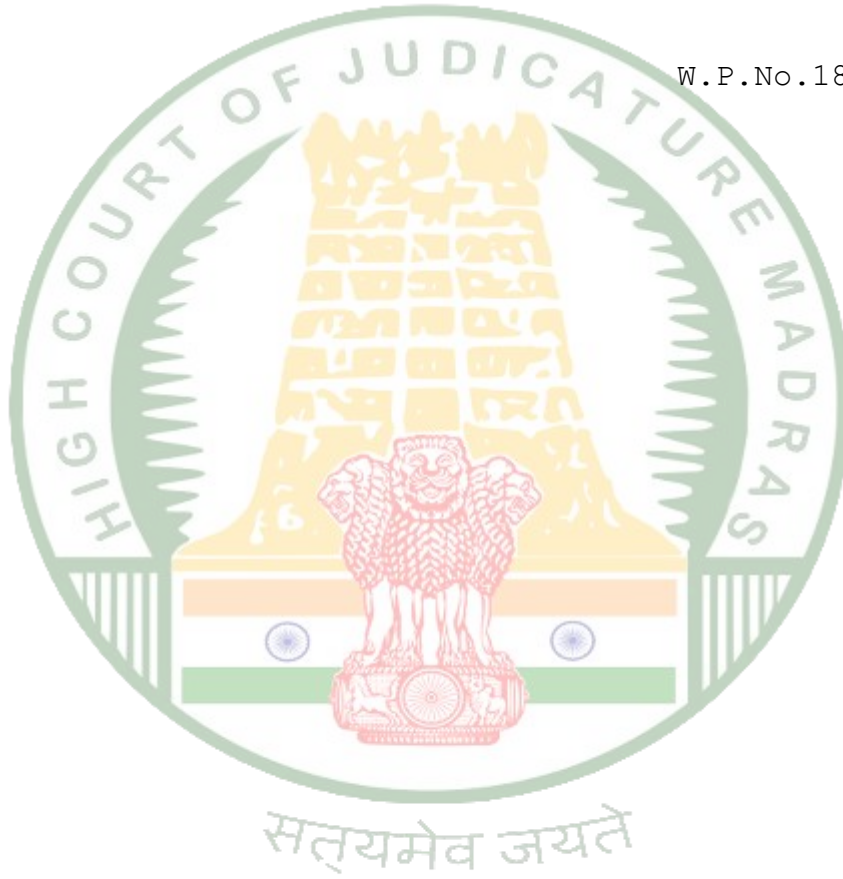
Sub Asst. Registrar

To

1. The Secretary to Government,
Higher Education Department,
Fort St. George, Chennai - 600 009.
2. The Directorate of Collegiate Education,
D.P.I. College Road,
Chennai - 600 006.

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