

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 14.06.2017

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P. NO.14874 of 2017

M.Kumarasamy College of Engineering,
Thalavapalayam,
Karur
Pin-639 113
Rep. by its Chairman Dr.K.Ramakrishnan

... Petitioner

..Vs..

1. The Regional Officer,
All India Council for Technical Education, (AICTE)
Shastri Bhavan,
Haddows Road,
Chennai-600 006.

2. The Director
Approval Bureau,
All India Council for Technical Education, (AICTE)
Nelson Mandela Marg,
Vasant Kunj,
New Delhi-110 007. Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus forbearing the Respondents from insisting planning permission from the Director of Town & Country Planning (DTCP), Tamil Nadu pursuant to their letter in F.No.Southern/DTCP/2017-18/AB dated 26.04.2017 by accepting the Planning permission granted by the Punjai Thottakurichi Town Panchayat dated 21.10.2009 for the grant of extension of approval for the Academic year 2017-2018.

For Petitioner : Mr.K.Sridhar

For Respondents: Mr.B.R abu Manohar (R1 and R2)

O R D E R

This writ petition has been filed seeking for a direction to the respondents to forbear them from insisting planning permission from the Director of Town & Country Planning (DTCP), Tamil Nadu pursuant to their letter in F.No.Southern/DTCP/2017-18/AB dated 26.04.2017, by accepting the Planning permission granted by the Punjai Thottakurichi Town Panchayat dated 21.10.2009 for the grant of extension of approval for the Academic year 2017-2018.

2. The case of the petitioner is that the petitioner Institution was started in the year 1999 and the All India Council for Technical Education granted approval from the Academic year 2000 onwards. In the year 2000 the Punjai Thotakurichi Town Panchayat granted planning permission to construct building for the petitioner's college on 21.11.2000. Since, the petitioner wanted to construct additional buildings, the Punjai Thotakurichi Town Panchayat in its planning permission dated 21.10.2009, granted planning permission to construct additional buildings for the petitioner college. The amendment to Section 47 of the Town and Country Planning Act, 1971 came into effect from 01.01.2007, wherein Section 47(a) was introduced stating that the buildings should obtain planning approval from the Director of Town & Country Planning (DTCP). It is further stated that the respondents are insisting on approval from the DTCP for the buildings constructed in the year 1999. It is the further case of the petitioner that this Court, on several instances had held that the amendment in Section 47 can only be prospective and not retrospective. The respondents in its letter dated 26.04.2017 had intimated to the petitioner that the DTCP approval should be submitted on or before 31.10.2017. It is further stated that the petitioner has sent a representation dated 07.06.2017, to the respondents to accept the Planning permission granted by the Executive Officer Punjai Thottakurichi Panchayat, Karur District. Since the same was not considered so far, the petitioner has come forward with this Writ Petition

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

4. The learned counsel for the petitioner would submit that Since, the petitioner wanted to construct additional buildings, the Punjai Thotakurichi Town Panchayat in its planning permission dated 21.10.2009, (B.A.No.28/2009) granted planning permission to construct additional buildings for the petitioner college and hence requested this Court to direct the

respondents to accept the same and not to insist on the planning permission from the Director of Town & Country Planning (DTCP), Tamil Nadu pursuant to their letter in F.No.Southern/DTCP/2017-18/AB dated 26.04.2017. The copy of the Planning permission dated 21.10.2009 is also produced before this Court today.

5. This Court on 31.08.2016, in a batch of W.P.Nos.20890 & 20891 of 2016, has held that the amendment to Section 47 (A) of the Town & Planning Act, 1971 is prospective and not retrospective and the earlier planning approval given by the Panchayat would hold good since it is a valid planning authority.

6. 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 order dated 31.08.2016, passed by this Court in W.P.Nos.20890 and 20891 of 2016, the respondents are directed to consider and dispose of the representation filed by the petitioner, dated 07.06.2017, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order. However, it is made clear that they shall not insist on the approved building plan from the Director of Town and Country Planning (DTCP) for the academic year 2017-2018.

7. This Writ Petition is disposed of with the above directions. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

सत्यमेव जयते

arr/vv

To

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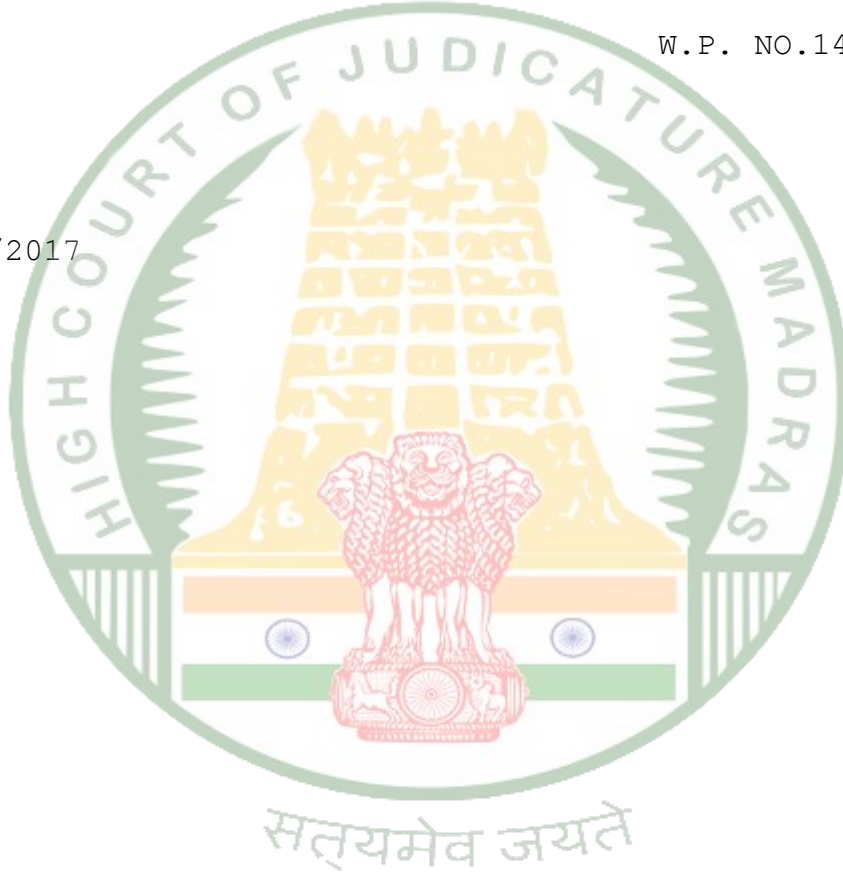
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+lcc to Mr.K.Sridhar, Advocate Sr.41868
+lcc to Mr.B.Rabumanohar, Advocate Sr.41867

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gj[col]
srg 29/06/2017



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