

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.03.2017

CORAM

THE HON'BLE Mr. JUSTICE M.M.SUNDRESH

W.P.No.1610 of 2017

and W.M.P.No.1570 of 2017

M/s.ARV and Associates
A Partnership Firm,
now converted and renamed as
Ramaniyam Infrastructure
Private Limited rep. by its
Director S.V.K.Sundar ... Petitioner

Vs.

1.The Secretary to Government,
Housing and Urban Development
Department,
Fort St. George, Chennai - 9.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 8. ... Respondents

Petition filed under Article 226 of The Constitution of India praying to issue a writ of mandamus directing the respondent to process the revised planning permission application of the petitioner under File No.SBC No.INST/2016/000528 dated 26.07.2016 for constructions of G + 3 floor school building which is pending before the second respondent as per the existing development control rules and regulations without insisting Clause 26 of the second respondent's letter C4/14612/2016 dated 08.02.2016.

For Petitioner	..	Mr.S.Sundaresan
For Respondents	..	Mr.K.Dhananjeyan, Spl. Govt. Pleader for R1 Mr.C.Johnson for R2

ORDER

The petitioner originally made an application seeking planning permission for construction of ground + three floors school building. It was rejected by saying that as per the report of Justice Sampath Committee, the same will not be considered. After putting up the construction, the petitioner made another application seeking planning permission for the third floor, placing reliance upon the Development Regulation No.25 (7) which provides for stilt + four floors or ground + three floors for school buildings. As the said application has not been considered, the present writ petition has been filed.

2.Learned counsel appearing for the petitioner submits that the mere circular of the second respondent and the communication of the Education Department cannot be put against the Development Regulation No.25(7) and prays for allowing the writ petition.

3.Learned counsel appearing for the second respondent CMDA would rely upon the counter affidavit to submit that such a decision has been taken pursuant to Justice Sampath Committee recommendation and the communication of the Education Department.

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.

-Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

1.The Secretary to Government,
Housing and Urban Development
Department,
Fort St. George, Chennai - 9.

2.The Member Secretary,
Chennai Metropolitan Development
Authority,
No.1, Gandhi Irwin Road,
Thalamuthu Natarajan Building,
Egmore, Chennai - 8.

+ 1 cc to Mr.S.Sundaresan, Advocate Sr.No.18119
+ 1 cc to Mr.C.Johnson, Advocate Sr.No.18589
+1 cc The Government Pleader Sr.No.18805

W.P.No.1610 of 2017

VGI (CO)

RRI 12/04/2017