

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2017

C O R A M

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

Writ Petition No.22099 of 2012 and
M.P.No.1 of 2012

The Manager 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,
represented by its Secretary,
Education Department,
Fort Saint George,
Chennai 600 009.
- 2 . The Director of School Education,
College Road,
Chennai-6.
- 3 . The Chief Educational Officer,
Palani Salai, Dindigul-10.
- 4 . The District Education Officer,
Karur Salai, Dindigul ... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned order passed by the 2nd Respondent in Na.Ka.No.97736/E2/2012, dated 24.07.2012 and quash the same and direct the respondents to grant recognition for up gradation of the petitioner's High School as Higher Secondary School.

For Petitioner ...Mr.S.N.Ravichandran

For Respondents 1 to 4 ...Mr.V.Anandhamurthy,
Additional Government Pleader

O R D E R

Challenging the order passed by the 2nd Respondent in Na.Ka.No.97736/E2/2012, dated 24.07.2012, refusing to grant recognition for up gradation of the petitioner's High School as Higher Secondary School, the present Writ Petition came to be filed.

2. The facts of the case are as follows:

(i) The petitioner school was originally started in the year 1971 as Primary School and subsequently, it was upgraded as Middle School in the year 1977 and also recognition was granted for High School on 31.01.2001. The recognition for High School is periodically renewed for every three years. The petitioner also applied to the 2nd respondent through 3rd Respondent for upgradation as Higher Secondary School as early as on 27.05.2005 with all necessary documents. The said proposal was returned by the 4th Respondent on 17.06.2006. Thereafter, all the conditions were complied with and the proposal was re-submitted to the 2nd Respondent through the 3rd Respondent.

(ii) The 4th respondent submitted the proposal, recommending for upgradation of the petitioner school as Higher Secondary School vide letter dated 30.01.2008 to the 3rd Respondent. The 3rd respondent made an inspection and forwarded the proposal with recommendation for upgradation of the petitioner school as Higher Secondary School by letter dated 08.02.2008 to the 2nd Respondent. As there was no response, the petitioner submitted a detailed representation to the 1st and 2nd Respondents on 14.05.2008, requesting to grant permission for up gradation of his school as Higher Secondary School, as the school has entered into lease for 10 years to the extent of 4.33 acres adjacent to the school land with 2.60 $\frac{1}{2}$ acres.

(iii) The said proposal was rejected by the 2nd Respondent on the ground that the petitioner school has 2.60 $\frac{1}{2}$ acres instead of 3 acres as per G.O.Ms.No.49 dated 01.03.2007, with a direction to resubmit the same after purchasing the remaining 39 $\frac{1}{2}$ cents. The petitioner submitted letters dated 09.06.2008 and 21.07.2008 requesting to reconsider the proposal for upgradation of the school as Higher Secondary School taking note of the fact that the school has got further 4.33 acres, 100 meters away from the school, for lease for a period of 10 years. But, there is no answer for the same.

(iv) In this regard, several writ petitions have been filed by the petitioner and they were disposed of by this Court by directing the 2nd respondent to consider the proposal of the 3rd respondent and then to pass appropriate orders. Lastly, the

petitioner filed W.P.No.21223/2011 challenging the G.O.Ms.No.49 dated 1.3.2007 and the consequential rejection order dated 06.06.2011 in which this Court by order dated 13.06.2012 while disposing of the same directed the petitioner to fulfill certain conditions and thereafter, inspecting the school by the concerned authorities, directed the 2nd respondent to pass an order. Accordingly, after fulfilling the said condition, an inspection was made by the 4th respondent and by the 3rd respondent and a report was also submitted to the 2nd respondent. But, the 2nd respondent by the impugned order dated 24.07.2012 rejected the claim of the petitioner. Hence the present Writ Petition.

3. Learned Counsel for the petitioner would submit that though the Writ Petition has been filed as early as in the year 2012, on 09.06.2015, a proposal by the school to the 2nd respondent seeking permission to start Group III Courses along with necessary documents has been submitted. Further, on 23.05.2016, the petitioner has sent a letter to the District Educational Officer, Dindigul seeking upgradation of his school as Higher Secondary School from 2016-2017 onwards and also sent a representation to the respondents 1 and 2 herein on 27.05.2016. However, by letter dated 18.06.2016, the 4th respondent, namely, the District Educational Officer, Dindigul, directed the petitioner to submit some required particulars in full form and the same has already been submitted. Therefore, the learned Counsel would pray to allow the present writ petition.

4. Learned Additional Government Pleader appearing for the respondents would submit that the recommendations of the petitioner seeking upgradation of his school from High School to Higher Secondary School had been considered and an inspection was carried out on 13.4.2017 by the 4th Respondent/ District Educational Officer and the Inspection Report was forwarded to the 3rd Respondent/ Chief Educational Officer and to the 2nd Respondent/ Director of Tamil Nadu School Education for further orders. He would further submit that now the Director of School Education has to pass orders in this regard, which is pending for consideration with him.

5. I have considered the submissions made on either side and also perused the materials available on record.

6. Considering the facts and circumstances of the matter and also the submission of the learned Additional Government Pleader appearing for the respondents that the Inspection Report was forwarded to the 3rd Respondent/Chief Educational Officer and to the 2nd Respondent/ Director of Tamil Nadu School Education for further orders, who is the competent authority to pass final

orders in this matter and since the academic year is to commence in the month of June, 2017, the 2nd respondent, namely, the Director of School Education, is directed to consider the recommendations of the District Educational Officer in this regard and pass appropriate orders, after giving sufficient opportunities to the petitioner to represent his case, within a period of six weeks from the date of receipt of a copy of this Order.

7 . With the above observation, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 . The Secretary,
State of Tamil Nadu,
Education Department,
Fort Saint George,
Chennai 600 009.
- 2 . The Director of School Education,
College Road,
Chennai-6.
- 3 . The Chief Educational Officer,
Palani Salai,
Dindigul-10.
- 4 . The District Education Officer,
Karur Salai,
Dindigul.

+1cc to Mr.S.N.Ravichandran, Advocate Sr.23958

W.P.No.22099 of 2012

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srg 21/04/2017