

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2017

CORAM

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

W.P.No.8764 of 2016
and WMP No.7777 & 7778 of 2016
and WMP No.5008 of 2017

SRP International School,
Rep.by its Chairman
A.P.Palanivel,
3/236, Muthukalipatti Post,
Rasipuram Taluk,
Namakkal District 637 401. Petitioner

Vs.

- 1.The Director of School Education,
DPI Campus,
College Road,
Chennai 600 006.
- 2.The Chief Educational Officer,
Office of the District Education Department,
Namakkal District,
Namakkal 637 001. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records of the second respondent vide proceedings in Na.Ka.No.1398/A2/2015 dated 23.11.2015 and in Na.Ka.No.2242/A2/2016 dated 15.02.2016 and quash the same and consequently direct the respondents herein to grant NOC & Recognition to the petitioner school.

For Petitioner : Mr.G.Arul Murugan
For Respondents : Mr.P.SanjayGandhi,
Addl.Govt.Pleader

O R D E R

The prayer in the writ petition is to issue a writ of certiorarified mandamus calling for the records of the second respondent vide proceedings in Na.Ka.No.1398/A2/2015 dated

23.11.2015 and in Na.Ka.No.2242/A2/2016 dated 15.02.2016 and quash the same and consequently direct the respondents herein to grant NOC & recognition to the petitioner school.

2. The petitioner has approached this Court challenging the order, by which the petitioner was directed to get approval for the school building to be obtained from the Deputy Director of Town and Country Planning. The petitioner school was established in the year 2014 having classes from Pre-K.G to VIIIth standard and the school is following CBSE syllabus system. The petitioner for the purpose of getting affiliation from CBSE, applied for NOC certificate from the respondents. However, by virtue of communication dated 26.05.2015, the petitioner's application was returned stating that there was no original annexure of approved building plan. Subsequently, the petitioner also gave a reply on 20.07.2015 and resubmitted the application. Even the said application was returned by the respondents stating that the petitioner has not obtained the building approval from the Deputy Director of Town and Country Planning. The said order is being challenged before this Court.

3. Heard Mr.G.Arul Murugan, learned counsel for the petitioner. He would submit that originally the building was approved as early as on 03.12.2004 by the Village Panchayat. Based on the approval only, permission to run the Teacher Training Institute was obtained and Teacher Training Institute was also run. However, due to certain reasons, the Teacher Training Institution has been closed down and the same building has sought to be used for running the CBSE school. Therefore, there is no necessity for the petitioner to get approval for building plan from the Deputy Director of Town and Country Planning, as the approval from Deputy Director of Town and Country Planning was made applicable only from 19.10.2015, which has been stated in the second paragraph of the impugned order dated 23.11.2015. Therefore, he would submit that there is no necessity for the petitioner to get a fresh plan approval for the building.

4. However, the learned Special Government Pleader would submit that the Village Panchayat President is not the technical authority to grant building approval and the stability of the building has to be ascertained by the Deputy Director of Town and Country Planning as the building was constructed in the year 2004.

5. A perusal of the records, especially the building plan approval granted by the Village Panchayat would show that the plan was approved as early as 03.12.2004. At that point of time, only the Village Panchayat was the authority to grant building plan approval under the Tamil Nadu Panchayat Rules. The building

which was constructed pursuant to the approval granted on 03.12.2004 is used for starting the present CBSE school. When the building was constructed after appropriate plan approval as early as 2004, relying upon the communication dated 19.10.2015 issued by the second respondent, the respondents cannot call upon the petitioner to get approval once again from Deputy Director of Town and Country Planning, as the approval from the Deputy Director of Town and Country Planning is necessary only for those buildings which are sought to be constructed now. A building would be constructed after getting the approval. In this case, rightly the building was already approved by the Village Panchayat. There is no new building which is sought to be constructed and therefore there is no question of getting approval again from Deputy Director of Town and Country Planning. If at all, the necessity to get Deputy Director of Town and Country Planning approval would arise only if a new building is constructed. Therefore the impugned order passed by the second respondent is set aside.

6. However, taking into consideration that the building was constructed in the year 2004, it is appropriate to direct the petitioner to get the stability certificate of the building and re-present the application to the respondent so that the present stability of the building can be established.

7. With the above direction, the Writ Petition is allowed. The respondents are directed to pass appropriate orders, on merits and in accordance with law within a period of four weeks from the date of re-submission of the application by the petitioner. No costs. Consequently connected Miscellaneous Petition is also closed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

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To

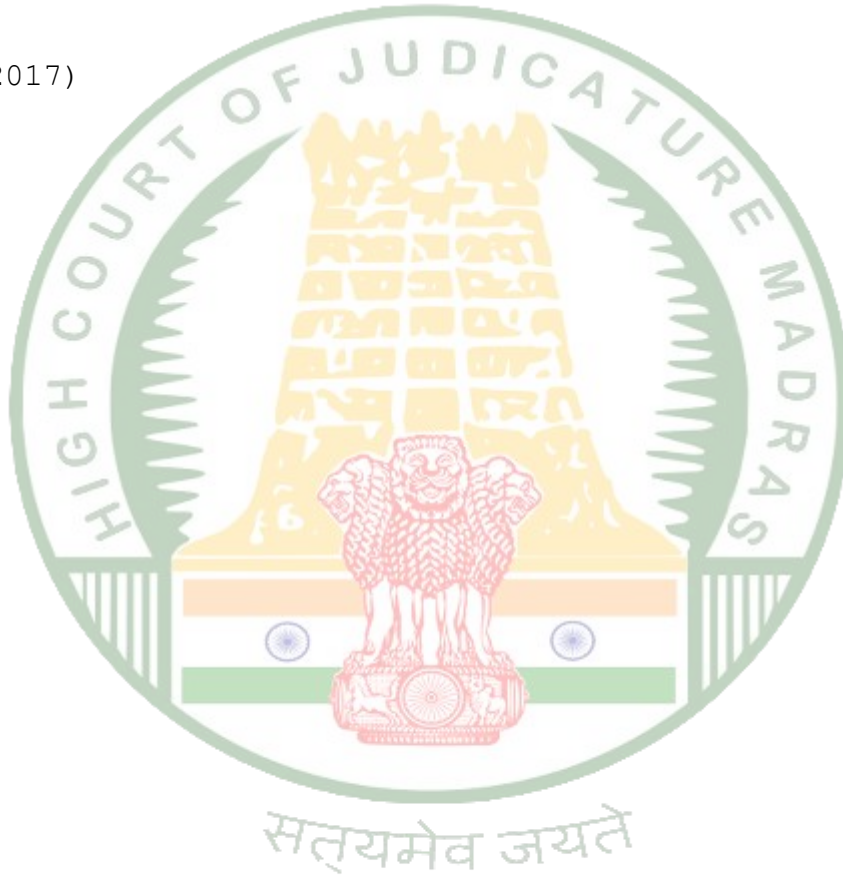
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+1cc to Mr. G. Arul Murugan, Advocate Sr. 15357

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LRS (CO)
VR(20/03/2017)



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