



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM

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

AND

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

W.A. (MD) No.784 of 2017

and C.M.P. (MD) Nos.5605 and 6964 of 2017

- 1.The District Elementary Educational Officer,  
Madurai District, Madurai.
  - 2.The Chief Educational Officer,  
Madurai.
  - 3.The Assistant Elementary Educational Officer,  
(Nursery and Primary Schools),  
Madurai.
  - 4.The District Collector,  
Madurai District.
- ... Appellants/Respondents

Vs.

St.Antony Nursery & Primary School,  
Rep. by its Correspondent,  
Having Office at Door No.7-1-1,  
Amman Kovil Street, Paravai,  
Madurai.

... Respondent/Writ Petitioner

Writ Appeal filed under Clause 15 of Letter Patent against the order passed by this Court in W.P.(MD)No.9628 of 2013 dated 14.08.2013.

**Prayer in WP(MD). 9628/ 2013 :**

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the proceedings of the order dated 12/06/2013 on the file of the 3rd respondent regarding the closure of the petitioner school and pasted in the door of the petitioner school and quash the same and further directing the respondents 1 and 2 to grant recognition to the petitioner school in consideration of the application dated 14/06/11 and resubmitted on 17/05/2013.

For Appellants : Mr.VR.Shanmuganathan  
Special Government Pleader

<https://hcservices.ecourt.gov.in/Reservices/> For Respondent : Mr.G.Prabhuraja Durai

**JUDGMENT**

(Judgment of the Court was delivered by **M.M.SUNDRESH, J**)

The respondent herein being the writ petitioner is a minority school. The appellants passed an order of closure of the school on the premise that the school is running without recognition. Challenging the same, the writ petition was filed. Incidentally, the writ petitioner also filed an application seeking recognition, which was returned as there was no compliance of the condition regarding putting up of R.C.C. roof as against the tiled shed. The learned Single Judge while setting aside the order of closure directed the respondent to resubmit the application for recognition and consequently directed the appellants to consider it without rejecting it on the ground that the respondent has put up only a tiled shed. Challenging the same, the present Writ Appeal has been filed.

2.The learned Special Government Pleader would submit that what was challenged before the learned Single Judge was order of closure. Therefore, the issue pertaining to the return of the application for recognition ought not to have merged into the same. It is submitted that even as per Justice Sampath Committee Report, the petitioner will have to comply with the conditions suggested for school with tiled shed. Accordingly, when it was not possible to provide R.C.C. Roof, the same will have to be done as per sub-clause (d) of clause 6.1.1.1.1.3. Incidentally, the other sub clauses, namely, (c), (e) to (l) also will have to be complied with.

3.The learned counsel appearing for the respondent/writ petitioner would submit that the school is catering to the needs of the poor and needy children. Therefore, the issue of financial capability is involved. It is not as if the school is running in a thatched shed but tiled shed. However, compliance of conditions indicated in sub-clause (c) to (l) of clause 6.1.1.1.1.3 in Justice Sampath Committee Report would be made.

4.We have considered the rival submissions and perused the materials available on record.

5.It is seen that Justice Sampth Committee Report was based upon the directions issued by the Hon'ble Apex Court in **Avinash Mehrotra v. Union of India [(2009) 6 SCC 398]** for insisting upon the type of construction and for that no law is required. After all, it only lies with the appellants to frame guidelines and what is required to be done is application in uniform manner. When once the power to give recognition is conferred, it takes in its sweep the conditions attached to it. What is required to be done is the uniform application. Once a stand has been taken that for getting recognition the parameters with respect of building as suggested



by Justice Sampath Committee Report is required to be complied with, it has to be applied to all those institutions, seeking recognition.

6. In such view of the matter, this Writ Appeal stands disposed of with liberty to the Writ Petitioner to make a fresh application seeking recognition after due compliance of sub-clause (c) to (1) of clause 6.1.1.1.3 in Justice Sampath Committee Report and as and when such application is made the appellants are directed to consider the same and pass appropriate orders within a period of 8 weeks therefrom.

7. We pass this order in view of the stand taken by the appellants that the said condition will apply to the Schools throughout the State and also taking note of the decision referred to above. For such compliance, we are of the view that no law or executive order is required.

No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Elementary Educational Officer,  
Madurai District, Madurai.
2. The Chief Educational Officer, Madurai.
3. The Assistant Elementary Educational Officer,  
(Nursery and Primary Schools), Madurai.
4. The District Collector, Madurai District.

+1cc to M/S.G.PRABHU RAJADURAI, Advocate SR.No.77199  
+1cc to Special Government Pleader, SR.No. 77700

sj

MAS/KP/SAR3:06.10.2017:3P-7C

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