



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 13.11.2017

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THE HONOURABLE MR. JUSTICE R. MAHADEVAN

W.P(MD)No.19111 of 2017
and
W.M.P(MD)No.15493 of 2017

The Correspondent,
Holy Family Nursery and Primary School,
Gnanaolivupuram,
Madurai - 625 016.
Madurai District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
represented by its
Secretary,
Department of School Education,
Fort St. George,
Chennai - 600 009.
- 2.The Director of Elementary Education,
College Road,
Chennai - 600 006.
- 3.The District Elementary Educational Officer,
Madurai, Madurai District.
- 4.The Assistant Elementary Educational Officer
(Nursery and Primary),
Madurai,
Madurai District.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus calling for the records relating to the impugned orders issued by the third respondent - District Elementary Educational Officer in O.Mu.No.3402/A5/2015, dated 03.08.2016 and quash the same and further direct the third respondent District Elementary Educational Officer to grant forthwith renewal of recognition to the petitioner's school, namely, Holy Family Nursery and Primary School from the academic year 2014 - 2017, without insisting upon such transfer of land.

For Petitioner
For Respondents

: Ms.A.Amala
: Mr.M.Alagathevan,
Special Government Pleader

ORDER

This writ petition has been filed seeking a writ of Certiorari and Mandamus calling for the records relating to the impugned orders issued by the third respondent - District Elementary Educational Officer, Madurai, Madurai District, in O.Mu.No.3402/A5/2015, dated 03.08.2016 and quash the same and further direct the third respondent to grant forthwith renewal of recognition to the petitioner's school, namely, Holy Family Nursery and Primary School from the academic year 2014 - 2017, without insisting upon such transfer of land.

2. Mr.M.Alagathevan, learned Special Government Pleader takes notice for the respondents.

3. By consent, the writ petition is taken up for final disposal.

4. According to the learned Counsel for the petitioner, the petitioner - school is owned and administered by St.Joseph's Society of Madurai, which got registered under the Tamil Nadu Societies Registration Act, 1975 and declared as a Minority Institution by this Court vide judgment dated 24.09.1976 made in W.P.No.648 of 1975 and the said society is running the petitioner - school and other two schools in a campus measuring 3.17 acres of land, of which, an extent of 8.16 cents of land was earmarked for the petitioner - school. The entire extent of land is owned by the said Society which is an educational agency for the petitioner - school.

5. Further, it is submitted by the learned Counsel for the petitioner that the petitioner - school got periodical renewal of recognition upto 12.09.2014 and thereafter, the petitioner - school submitted a letter dated 10.06.2014 seeking renewal of recognition from 2014 to 2017, however, the said was returned by virtue of the impugned proceedings dated 03.08.2016 directing the petitioner - school to enclose certain certificates, including a copy of the registered deed conveying the land in the name of the petitioner - school.

6. The main contention of the petitioner - school is that the educational agency, namely, St.Joseph's Society of Madurai, being the owner of the land has granted due permission and the authorities were fully satisfied and thereafter only, the approval was granted and to insist upon the ownership by the petitioner - school at the stage of renewal of recognition is arbitrary and illegal. To strengthen the same, she relied upon the judgment of this Court in *M/s.Subbulakshmi Lakshmi Pathy Foundation represented by its President v. The State of Tamil Nadu represented by its Secretary, Department of School Education, Fort St. George, Chennai* - 9 and others [W.P(MD)No.12933 of 2012, decided on 24.01.2013] and contended that the impugned order insisting upon the requirements



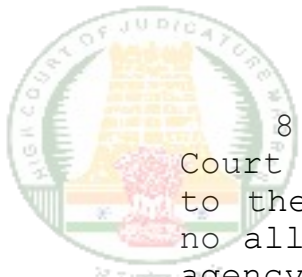
of registration of the property in the name of the petitioner - school cannot be valid in law and prayed for quashing the impugned order passed by the third respondent.

7. Per contra, the learned Special Government Pleader appearing for the respondents contended that though the petitioner - school is run by St. Joseph's Society of Madurai, which is declared as Minority institution, the petitioner - school, at the time of renewal of recognition, ought to have submitted the Sanitary Certificate and No Objection Certificate from the Fire and Rescue Department and further, the land earmarked for the petitioner - school should be registered in the name of the petitioner - school, or otherwise, an undertaking given by the educational agency should be duly registered and produced before the respondents at the time of renewal of recognition and thus, prayed for appropriate orders.

8. I have considered the rival submissions and perused the materials available on record.

9. In similar circumstances, this Court, in *The Correspondent, Good Shepherd Higher Secondary School, Serapattu, Kalrayan Hills (via), Sankarapuram, Villupuram District - 606 401 v. The Secretary, State of Tamil Nadu, Department of School Education, Fort St. George, Chennai - 600 009 and others* [W.P.No.22339 of 2013, decided on 16.02.2015], has held as follows:

"7. The short issue which fell for consideration of this Court is as to whether the respondents 5 and 6 are justified in refusing to extend recognition granted to the petitioner/school solely on the ground that the property does not stand in the name of the petitioner/school. Admittedly, the land has been in the name of the educational agency, which has established and is administering the petitioner/school. The petitioner/school has been recognised as a minority institution and granted protection under the provisions of the Act and Rules and as envisaged under Article 30(1) of the Constitution of India. Some of the identical circumstances arose for consideration before the Court in *M/s. Subbulakshmi Lakshmipathy Foundation's case* (cited supra), wherein also the school was run by an educational agency which is registered as a company u/s 25 of the Companies Act. The Department insisted that the School should own the land. However, the contention was not accepted by this Court and it was pointed out that insofar as the petitioner therein, there is no allegation that in the same campus, showing the same property, the same educational agency is running two or more schools. So long as there is no such finding and so long as it is admitted that only one school is located in the campus having land extent adequate to run a school and once it is found that the property is owned by the educational agency, the requirement of execution of lease deed in favour of the school or committee does not arise.



8. The decision rendered by the Madurai Bench of this Court in the decision cited supra is squarely applicable to the case on hand. In the instant case also, there is no allegation that in the extent of land, the educational agency has established more than one school. In such circumstances, the question of insisting upon the execution of lease deed in favour of the institution as called for in clause (1) of the impugned order does not arise.

9. Accordingly, the writ petition is allowed and the impugned order passed by the 5th respondent District Educational Officer, in O.Mu.No.9896/Aa4/2011 dated 18.12.2012 insofar as clause (1) is quashed. The respondents are directed to consider the petitioner's application for renewal of recognition in accordance with law, if it is found to be otherwise in order and pass orders on merits within a period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected miscellaneous petition is closed."

10. In the light of the aforesaid judgment, this Court is of the considered view that it is enough that the educational agency owns a property and the property need not be in the name of the school which of course is not a juristic person.

11. Following the same, the impugned order passed by the third respondent in O.Mu.No.3402/A5/2015, dated 03.08.2016, insofar as Clause (3), alone, is quashed and the third respondent is directed to consider the application of the petitioner - school for renewal of recognition in accordance with law, if it is found to be otherwise in order and pass orders on merits within a period of six weeks from the date of receipt of a copy of this order.

12. Accordingly, this writ petition stands disposed of as above. No costs. Consequently, the connected writ miscellaneous petition is closed.

Sd/-

Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1. The Secretary,
State of Tamil Nadu,
Department of School Education,
Port St. George,
Chennai - 600 009.



2.The Director of Elementary Education,
College Road,
Chennai - 600 006.

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3.The District Elementary Educational Officer,
Madurai,
Madurai District.

4.The Assistant Elementary Educational Officer
(Nursery and Primary),
Madurai,
Madurai District.

rsb

RL/5C/5P/SKN/RSK/SAR4/28/12/2017

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