



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2017

CORAM:

**THE HONOURABLE MR.JUSTICE M.VENUGOPAL
AND
THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE**

W.P. (MD)No.21994 of 2017

Sri Vidya Educational and Charitable Trust,
represented by its Managing Trustee,
Thiruvenkada Ramanuja Doss,
Son of N.Rengasamy, Valliyoor Panchayat,
P.Kumaralingapuram Village,
Virudhunagar District.

: Petitioner

.vs.

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

2. The Commissioner,
Town and Country Planning,
No.807, Anna Salai,
Chennai-2.

3. The Deputy Director of
Town and Country Planning,
Chinnachokkikulam,
Madurai.

4. The Special Officer/The Block Development Officer,
Valliyoor Panchayat,
P.Kumaralingapuram Village,
Virudhunagar District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the Respondents 1 and 2 to consider the Petitioner's representations dated 2.5.2017, 9.9.2017 and 10.10.2017 regarding the removal of lock and seal and also direct the Respondents 1 and 2 to remove the lock and seal made to the buildings of Engineering College of Sri Vidya Educational and Charitable Trust, situated in S.F.No.8/1A1, 2A, 2B, 3, 87/2, 88/7B, 91/4B, 92/1B1, 1B2, 1C.1D and 1E in Valliyoor Panchayat, P.Kumaralingapuram Village, Virudhunagar District immediately without any delay.



For Petitioner
For Respondents

: M/s.K.Baalasundharam
: Mr.M.Govindan
Special Govt.Pleader

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O R D E R

[Order of the Court was made by **M.VENUGOPAL, J.**]

This Writ Petition has been filed seeking issuance of a Writ of Mandamus directing the Respondents 1 and 2 to consider the Petitioner's representations dated 2.5.2017, 9.9.2017 and 10.10.2017 regarding the removal of lock and seal and also direct the Respondents 1 and 2 to remove the lock and seal made to the buildings of Engineering College of Sri Vidya Educational and Charitable Trust, situated in S.F.No.8/1A1, 2A, 2B, 3, 87/2, 88/7B, 91/4B, 92/1B1, 1B2, 1C.1D and 1E in Valliyoor Panchayat, P.Kumaralingapuram Village, Virudhunagar District immediately without any delay.

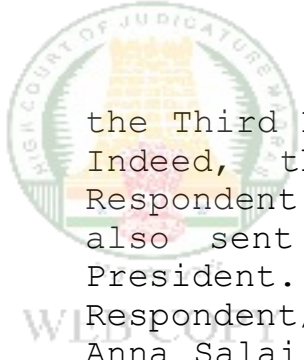
2.Heard both sides. No counter is filed on behalf of the respondents.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.According to the Petitioner/Trust, they have decided to run a Engineering College and accordingly, had purchased lands measuring an extent of 88.980 sq.mt in Valliyoor Panchayat, Kumaralingampuram Village, Virudhunagar District. As a matter of fact, the Petitioner/Trust had constructed the building and started the Engineering College, after securing proper permission from the Government.

5.The Third Respondent/The Deputy Director of Town and Country Planning, Chinna Chokkikulam, Madurai had sent a notice, dated 16.2.2015 mentioning that the Petitioner/Trust had not obtained prior approval for constructing the building in question and further, they have to submit proper application as per Section 49 of the Tamil Nadu Town and Country Planning Act, 1971, otherwise, the Petitioner was informed that they would lock and seal the college. It appears that the Petitioner/Trust had submitted its explanation immediately.

6.The grievance of the Petitioner is that the Third Respondent without considering the Petitioner's explanation, sealed the college building, by invoking the power under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act, as per order, dated 13.4.2015. The categorical stand of the Petitioner is that

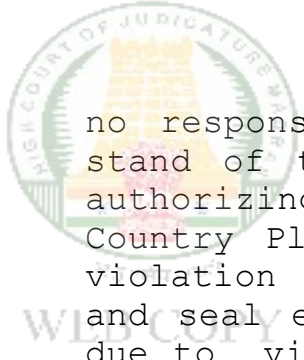


the Third Respondent accordingly sent a revised plan for approval. Indeed, the revised new new building plan was sent to the Second Respondent through proper channel namely, the Third Respondent and also sent a copy of the same to the Valliyoor Panchayat President. After receiving the revised new new plan, the Second Respondent/The Commissioner, Town and Country Planning, No.807, Anna Salai, Chennai-2 was satisfied and inclined to grant approval and directed the Third Respondent to issue plan approval after receiving the infrastructure and basic amenity charges and also Centage Charges through letter, dated 7.10.2016. That apart, the Third Respondent through his letter, dated 19.10.2016 issued Form 'C' Notice mentioning G.O.Ms.No.86, dated 28.3.2012 directing the Petitioner to pay a sum of Rs.76,14,00/- towards infrastructure and Basic Amenity Charges and also directed the Petitioner to pay another sum of Rs.48,600/- towards Centage Charges (Service Charges). The Petitioner/Trust, as per the direction issued by the Third Respondent, paid the aforesaid sum of Rs.76,14,000/- and also a sum of Rs.48,600/- on 10.4.2017, through State Bank of India, C.T.Complex, Madurai and sent the Remittance Challan to the Third Respondent.

7.It transpires that the Third Respondent/The Deputy Director of Town and Country Planning, No.807, Chinnachokkikulam, Madurai through his letter, dated 18.4.2017 made a recommendation to the Fourth Respondent/The Special Officer/Block Development Officer, Valliyoor Panchayat, P.Kumaralingapuram Village, Virudhunagar District to issue proper plan approval to the Petitioner/Trust's buildings constructed for the Engineering College in question. Besides this, the Fourth Respondent through his letter, dated 21.4.2017, had issued a proper plan approval to the Petitioner's buildings constructed for the Engineering College.

8.In reality, the Petitioner/Trust made a representation, dated 2.5.2017 before the Second Respondent seeking to remove the lock and seal and also enclosed the letter of the Third Respondent, dated 18.4.2017 and also the order of the Fourth Respondent, dated 21.4.2017. Since there was no response, again the Petitioner/Trust made another representation before the Third Respondent mentioning that they have rectified all the defects cited by them and obtained the plan approval to the building constructed for the Engineering College and requested for removal of lock and seal effected by them. The Third Respondent sent a letter, dated 30.8.2017 stating that the Petitioner's College had rectified all the defects and also obtained the plan approval etc.

9.At this stage, the Learned Counsel for the Petitioner points out before this Court that the Second Respondent had already sent a letter to the First Respondent, dated 26.7.2017 seeking clarification and also seeking permission to remove the lock and seal effected by the Third Respondent. However, there is



no response from the First Respondent. In this connection, the stand of the Petitioner is that there is no specific provision authorizing any of the authorities under the Tamil Nadu Town and Country Planning Act, 1971 to remove the lock and seal for the violation of Town and Country Planning Rules. Further, the lock and seal effected by the Third Respondent on 13.4.2015 is only due to violation in regard to the plan approval as per the Tamil Nadu Town and Country Planning Act, 1971 and after the coercive action taken by the Third Respondent, the revised plan was submitted which in-turn was forwarded by the Third Respondent with a recommendation to the Second Respondent and the Second Respondent, now acknowledged the revised plan and granted approval as per proceedings, dated 7.10.2016. It appears that while passing the afore-stated order, the Second Respondent had inadvertently omitted to pass an order to de-seal the premises by incorporating in the above order itself.

10.The Learned Counsel for the Petitioner brings it to the notice of this Court that the Petitioner made a representation, dated 9.9.2017 addressed to the Honourable Chief Minister's Cell and sent a copy to the First Respondent to remove the lock and seal made to the Petitioner's building in question. However, till date, there is no reply.

11.Considering the fact that the Petitioner's representations dated 2.5.2017, 9.9.2017 and 10.10.2017, as regards the removal of lock and seal, is pending before the First Respondent/The Secretary to Government, Housing and Urban Development, St.George Fort, Chennai, this Court, without traversing upon the merits of the matter and also not dwelling deep into the subject-matter in issue, at this stage, simpliciter, directs the First Respondent to look into the afore-stated representations of the Petitioner within a period of one week from the date of receipt of a copy of this order and to pass necessary orders based on the afore-stated representations of the Petitioner and in any event, within a period of two weeks thereafter.

12.With the above said observation(s) and direction(s), the Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar(CS-II)

/True Copy/

Sub Assistant Registrar

To

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



2. The Commissioner,
Town and Country Planning,
No.807, Anna Salai,
Chennai-2.

3. The Deputy Director of
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4. The Special Officer/The Block Development Officer,
Valliyoor Panchayat,
P.Kumaralingapuram Village,
Virudhunagar District.

+1cc to Mr.K.Baalasundharam, Advocate Sr.No.90111

+1cc to Spl.Government Pleader Sr.No.90709

VSN

VB/JC/SAR4/08/12/2017/5P/7C

**ORDER MADE IN
W.P. (MD) No.21994 of 2017
29.11.2017**