



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.03.2017

RESERVED ON : 15.02.2017

CORAM :

WEB COPY

THE HONOURABLE MR.JUSTICE M.S.RAMESH

Writ Petition (MD) No.4935 of 2013

and

W.M.P(MD)No.5416 of 2016

Rahmania Higher Secondary School,
Rep by its Manager and Correspondent,
S.S.Hassan Aboobacker,
Melapalayam, Tirunelveli District.

... Petitioner

Vs.

1.The Joint Director of School Education
(Higher Secondary Education),
Chennai-6.

2.The Joint Director of School Education
(Secondary Education),
Chennai-6.

3.The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.

4.The District Educational Officer,
Tirunelveli,
Tirunelveli District.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the respondents 1 and 2 to grant recognition to the petitioner's school for both High School and Higher Secondary School for a period between 01.06.2010 and 31.05.2013 without insisting to produce the Building Licence Certificate in the light of the proceedings issued by the Director of School Education in RC.No.1524/G2/75 dated 17.04.1976 by considering the proposals dated 17.07.2010 sent by the petitioner within the period that may be stipulated by this Court.

For Petitioner : Mr.C.Venkateshkumar
for M/s.Ajmal Associates

For Respondents : Mr.T.R.Janarthanam,
Additional Government Pleader.

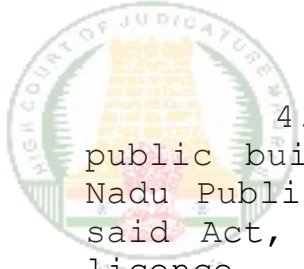
**ORDER**

The petitioner's school, which is a minority institution, has been obtaining temporary recognition from the State Government as well as the concerned authority for every three years. The last temporary recognition was granted by the first respondent for the period ending 31.05.2010. When the petitioner had sent a proposal for temporary recognition for a further period commencing from 01.06.2010, the third respondent, through his proceedings dated 29.01.2011, had called upon the petitioner to produce the Building Licence Certificate and Building Plan Approval of the petitioner's school issued by the municipal Corporation. The petitioner had sent a reply stating that Rule 9 (2)(a) of the Tamil Nadu Recognised Private Schools (Regulation) Rules 1974 (for brevity "the Rules"), is not applicable to the minority institutions as per the direction of this Court, which was followed by the proceedings of the Director of School Education in R.C.No.1524/A2/75, dated 17.04.1976 and therefore, requested the first respondent to grant temporary recognition without insisting for the Building Licence Certificate. According to the petitioner, Rule 9 was made inapplicable to minority institutions and therefore, production of Building Licence Certificate was not mandatory. Hence, the petitioner had produced the building stability certificate issued by the respondents and sought for recognition. Since no orders were passed on their application, the present writ petition has been filed.

2.Heard Mr.C.Venkateshkumar, learned counsel appearing for the petitioner and Mr.T.R.Janarthanam, learned Additional Government Pleader appearing for the respondents.

3.At the outset, it has to be borne in mind that the Building Licence Certificate sought for by the respondents is for the purpose of granting recognition to a building which houses school children and teachers. The only ground on which the petitioner school seeks for a direction for grant of recognition without production of Building Licence Certificate is that Rule 9 (2) (a) of the Rules has been made inapplicable to minority institutions. The petitioner had failed to note that after the judgment of this Court and the consequent proceedings of the Director of School Education making Rule 9(2) (a) as inapplicable to minority institutions, G.O.Ms.No.123, School Education Department, dated 14.09.2004 came to be passed and Rule 9 was subsequently amended. As per the amended Rules, production of licence permitting the use of the school building as public building under the Tamil Nadu Public Buildings (Licensing) Act, 1965 was made mandatory. Rule 9(2) (a) (i) reads as follows:

"9(2) (a) (i) Produce a licence permitting the use of the school building as public building under the Tamil Nadu Public Buildings (Licensing) Act, 1965 (Tamil Nadu Act 13 of 1965)."



4. Moreover, the petitioner's school is deemed to be public building as defined under Rules 2(8)(a)(i) of the Tamil Nadu Public Buildings Licensing Act, 1965. Under Section 3 of the said Act, no building can be used as public building without a licence.

5. Above all, the petitioner having produced the stability certificate is not justified in refusing to produce the Building Licence Certificate which was insisted only as an additional assurance for the safety of the building and the school children/teachers housed in it. Since it is mandatory for the school to obtain the licence under the Tamil Nadu Public Buildings Licensing Act, 1965, the petitioner-school is not justified in refusing to supply a copy of the licence to the respondents.

6. In view of the same, there is no merit in the writ petition. Accordingly, the writ petition stands dismissed. However, the petitioner is granted liberty to approach the concerned authorities with a Building Licence Certificate for the purpose of seeking recognition. No costs. Consequently, W.M.P (MD) No. 5416 of 2016 is closed.

Sd/-

Assistant Registrar (CS-III)

/True copy/

Sub Assistant Registrar

To

1. The Joint Director of School Education
(Higher Secondary Education),
Chennai-6.
2. The Joint Director of School Education
(Secondary Education),
Chennai-6.
3. The Chief Educational Officer,
Tirunelveli,
Tirunelveli District.
4. The District Educational Officer,
Tirunelveli,
Tirunelveli District.

+1 cc to M/S. AJMAL ASSOCIATES , Advocate in SR.No. 12155

sms

AE/RR/23.03.2017/3P/6C

order made in
Writ Petition (MD) No. 4935 of 2013
and
W.M.P (MD) No. 5416 of 2016
03.03.2017