

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 4.7.2018

CORAM

THE HONOURABLE MR.JUSTICE HULUVADI G.RAMESH
AND
THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.A.No.1378 of 2018 and
C.M.P.Nos.10886 & 10887 of 2017

N.M.G.Nursery and Primary School
Rep by its Correspondent S.Gomathi
No.792 Ahamadhiya Street Pothakkudi
Needamangalam Taluk Thiruvarur District ...Appellant

Versus

- 1 The Chief Education Officer,
Tiruvarur
- 2 District Elementary Educational Officer,
Tiruvarur
- 3 Assistant Elementary Educational Officer(Nursery),
Tiruvarur ...Respondents

Prayer: Writ Appeal filed filed under Clause 15 of the Letters Patent against the order dated 13.9.2017 passed in W.P.No.28405 of 2014 on the file of this court.

Writ Petition is filed under Article 226 of the Constitution of India Praying for a Writ of Certiorarified mandamus calling for the records made in the impugned order in Na.Ka.No.3085-6/2014/A4 dated 23/06/2014 passed by the 1st respondent quash the same and further directed the respondents to grant renewal of license to the petitioner's school namely, N.M.G. Nursery and Primary School, No.792, Ahamadhiya street, Pothakkudi, Needamangalam Taluk, Thiruvarur District.

For appellant : Mr.V.Manohar
For respondent : Mr.K.Karthikeyan, Government Advocate

JUDGMENT

(Judgment of the court was made by HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and Mr.K.Karthikeyan, learned Government Advocate, who takes notice on behalf of the respondents.

2. It appears that the application submitted by the appellant/writ petitioner-School for renewal of licence to run the school was rejected by the authorities and the same was put to challenge in the writ petition. The learned Single Judge, having found that there are only 18 students studying in the school upto V standard, while disposing of the writ petition, giving liberty to the appellant to file a fresh application for consideration by the authorities, directed the authorities to accommodate the students studying in the unapproved school in the nearby schools within a stipulated time, which is challenged by the writ petitioner in the present writ appeal.

3. It appears that there are some disputes between the appellant and the owner of the land where the school is run. In such scenario, the learned Single Judge has directed the authorities to accommodate the students studying in the said school as it is an unapproved one, which is only in the interest of the students. We do not find any error in the order passed by the learned Single Judge. Therefore, the authorities are directed to comply with the order passed by the learned Single Judge in accommodating the students of the said school within a period of two weeks from the date of receipt of a copy of this judgment.

4. However, we find that the appellant/writ petitioner, who is not in a position to provide own accommodation, and therefore, unless there is a clear understanding between the tenant and the owner of the building/landlord, the authority could not help the appellant/writ petitioner, rather it is for the appellant/writ petitioner to have consensus with the landlord and then only the interest of the appellant/writ petitioner could be protected or else, if the appellant/writ petitioner could accommodate the students in their own building or in some other alternative building, but, the appellant/writ petitioner cannot command the landlord at this juncture to extend his co-operation. It is purely in between the appellant/writ petitioner and the landlord where the school is run.

5. Even now, it will not be too late for the appellant/writ petitioner to make a conducive situation so that the authority could revisit into the matter with practical approach and a decision could be taken on the representation already pending or otherwise the petitioner can very well submit a fresh

representation to consider their case on merits and not prejudicial to the interest of the school which has already come and upto 5th standard. Therefore, in modification of the order passed by the learned Single Judge to that extent only with regard to shifting of the building, we direct the respondent authority to re-examine the issue and take a decision. Even if it is not possible, as ordered by the learned Single Judge, the students of 5th standards be accommodated elsewhere in the meanwhile, it would be possible for the appellant/writ petitioner to set right the things by providing an alternative building. Accordingly, the writ appeal is disposed of. No costs. The connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

ssk.

To

1. N.M.G.Nursery and Primary School,
Rep by its Correspondent S.Gomathi,
No.792 Ahamadhiya Street Pothakkudi,
Needamangalam Taluk Thiruvarur District.
- 2 The Chief Education Officer,
Tiruvarur.
- 3 District Elementary Educational Officer,
Tiruvarur.
- 4 Assistant Elementary Educational Officer(Nursery),
Tiruvarur.

+lcc to Mr.V.Manohar, Advocate, S.R.No.43328
+lcc to the Government Pleader, S.R.No.44066.

W.A.No.1378 of 2018

BM 10/07/2018