

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :15.02.2018

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.2148 of 2018

All India Private Educational Institutions Association
Represented by its State General Secretary K.Palaniyappan
No.5, M.P.Avenue,
Majestic Colony, Saligramam,
Chennai - 600 093.

..Petitioner

vs

The Director,
The Directorate of Matriculation Schools,
DPI Campus, College Road,
Chennai.

..Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents not to insist upon Building Plan approval from Directorate of Town and Country Planning (DTCP) Department in respect of our members list (Annexure-A) and process the applications for Recognition and Upgradation based on Local body building plan approval in view of various orders of Madras High Court.

For Petitioner : M/s.E.Vijay Anand

For Respondent : M/s.C.Munusamy

सत्यमेव जयते
Special Government Pleader
(Education)

ORDER

The writ petition has been filed to issue a Writ of Mandamus, to direct the respondents not to insist upon Building Plan approval from the Directorate of Town and Country Planning (DTCP) Department in respect of the members list (Annexure-A) of the petitioner Association and process the applications for recognition and upgradation based on Local body building plan approval.

2. When the matter was taken up for consideration, the learned counsel for the petitioner and the learned Special Government Pleader (Education) appearing for the respondent have jointly submitted that the issue involved herein is covered by the order dated 19.01.2018 passed in W.P.Nos.682 & 683 of 2018 [Periyanayaki Amman Matriculation School and another v. the Director of Matriculation Schools, Chennai and others], wherein, this Court had disposed of the said writ petitions, in the following terms:

"10. It is trite in law that the Executive Authority under the Tamil Nadu Panchayats Buildings Rules, 1997, is the Village President, who is competent to grant approval for construction. Apart from disputed facts, what is required is only a consultation with the concerned Joint Director or Deputy Director of Town and Country Planning, in which the petitioners schools have no role to play, since it is an internal arrangement between the Panchayat President and the Joint Director or Deputy Director of Town and Country Planning.

11. Admittedly, no action has been initiated against the said Panchayat Presidents, on account of their competency under the Rules to grant such approvals. That apart, the petitioners are Matriculation schools, being run within the Neelikonampalayam and Vellanaipatti Districts and G.O. (Ms) No. 270 School Education (X2) Department dated 22.10.2012 does not insist upon the building plan to be approved by the Joint Director or Deputy Director of Town and Country Planning. Since the Executive Authority, namely, Panchayat Presidents have approved the building the plans, the act of the petitioners cannot be faulted with in any manner, more particularly, it cannot be said that it is against the provisions of law.

12. Further, the petitioners have fulfilled all the requirements and the only issue raised by the respondents that prior approval of the Joint Director or Deputy Director of Town and Country Planning is mandatory, cannot be accepted, in view of the Rules envisaged in Tamil Nadu Panchayats Buildings Rules, 1997.

13. In view of the above and following the decisions referred to supra, the impugned communications, dated 18.07.2017 and 24.10.2017, issued by the first respondent, are set aside and the matters are remitted back to the first respondent and the petitioners are directed to file their representations, seeking upgradation of school to the first respondent within a period of two weeks from the date of receipt of a copy of this order and on receipt of the same, the first respondent, after getting clarification from the concerned Panchayats or from the Town and Country Planning Authorities, whether building plan approval has been granted to the petitioners school, as required under law, shall inform about the status to the petitioners school by a letter, within a period of two weeks thereafter and the petitioners school shall comply with the same within a period of four weeks thereafter. In case the respondents find any violation in the construction of the school buildings, the same can be brought to the notice of the petitioners, either to modify or change the structure / superstructure of the school buildings.

14. On receipt of the reply, the first respondent shall consider the petitioners' representation seeking to upgrade the schools to Higher Secondary Level and pass appropriate orders in line with the order of this Court in the case of Director of Matriculation Schools, Directorate of Matriculation Schools, DPI Campus, Chennai - 600 005 v. Kaviyan School rep. by its Correspondent C.Deenathayalapandian, Indira Nagar, Malayakoundanpatti, Ammayanaickanur, Nilakottai, Dindigul District reported in 2015-5-L.W.101, as expeditiously as possible.

15. The Writ Petitions are allowed on the above terms. No costs. Consequently, connected Miscellaneous Petitions are closed."

3.Following the same, this Court is inclined to dispose of this writ petition in line with the aforesaid order.

4.Accordingly, this writ petition is disposed of, directing the respondent to consider the representation dated 29.01.2018 submitted by the petitioner, after getting clarification from the concerned Panchayats or from the Town and Country Planning Authorities and pass appropriate orders, in line with the order of this Court in Director of Matriculation Schools, Directorate of Matriculation Schools, DPI

Campus, Chennai -5 v. Kaviyan School rep. by its Correspondent C.Deenathayalapandian, [2015-5-LW.101], within a period of four weeks from the date of receipt of a copy of this order. No costs.

-Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To
The Director,
The Directorate of Matriculation Schools,
DPI Campus, College Road,
Chennai.

- 1 cc to Mr.E.Vijay Anand, Advocate Sr.No.11597
- 1 cc to The Government Pleader Sr.No.12475

W.P.No.2148 of 2018

CO(PA)

RRI 04/04/2018



WEB COPY