

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2018

CORAM

THE HONOURABLE MR. JUSTICE R.MAHADEVAN

W.P.No.17117 of 2017

and

W.M.P.No.18592 of 2017

AIM for Seva Student Home,
Rep.by its Co-ordinator,
Swamini Gurupriyananda Saraswati,
No.4/56-C, Kurichikottai Post,
Udumalpet Taluk,
Tiruppur District - 642 112.

.. Petitioner

Vs

1.The District Child Protection Officer,
District Child Protection Unit,
Social Defence Department,
No.633, Collector Office Campus,
Palladam Road,
Tiruppur - 641 604.

2.The District Collector,
Tiruppur District,
Collectorate Campus,
Palladam Road,
Tiruppur - 641 604.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of certiorarified mandamus, to call for the records and quash the impugned Notice Ref: 397/DCPOA/2016, dated 01.06.2017 by the 1st respondent and consequently direct the 2nd respondent to expeditiously dispose of the petitioner's application dated 03.09.2016 for registration of the Student Home under Section 12(3) r/w Rule 4 (4) of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014 and Rules 2015, within a prescribed time limit to be fixed by this Court.

For Petitioner : Mr.V.B.R.Menon

For Respondents : Mr.P.Rajalakshmi
Additional Government Pleader

O R D E R

Challenging the impugned notice dated 01.06.2017 issued by the first respondent, the petitioner has come up with the present writ petition and a consequential direction has been

sought to the second respondent to dispose of the petitioner's application dated 03.09.2016 for registration of the Student Home under Section 12(3) r/w Rule 4(4) of the Tamil Nadu Hostels and Homes for Women and Children (Regulation) Act, 2014 and Rules 2015, within a prescribed time limit to be fixed by this Court.

2. The case of the petitioner is that the petitioner Home has been established to help the children from poor and downtrodden families to pursue their further education and the same was earlier registered under the Juvenile Justice (Care and Protection of Children) Act, 2006, on 02.06.2015. Thereafter, the petitioner realised that their home does not come within the ambit of the said Act. Hence, they submitted an application dated 03.09.2016 to the second respondent, to register the same under Section 12(3) R/w Rule 4(4) of the Tamil Nadu Hostels and Homes for Women and Children (regulation) Act, 2014 and Rules, 2015 and the same is pending. While so, the first respondent issued the impugned notice dated 01.06.2017, stating as follows :

" ... So it is herewith instructed that 'AIM for Seva' Children Protection Home be registered under either Sec.41 of JJ (Care & Protection) Act, 2015 or under 'Tamil Nadu Women & Children Hostels and Homes Act, 2014. We have explained & advised on this when we have met in person. So, it is WARNED that if your Home is functioning without any Registration, we would initiate proceedings under Section 42 of JJ (Care & Protection) Act, 2015."

3. Upon notice, the first respondent filed a counter affidavit, wherein in paragraphs nos.3 and 5, it has been averred as follows:

" 3. I submit that the petitioner registered their Aim For Seva Children Protection Home under the Juvenile Justice (care & protection) Act 2006, they received the registration certificate bearing No.6670/D1/2014, dated 02.06.2015 from the Directorate of Social Defence, Chennai - 600 010 on the direction by the 1st respondent. The certificate of registration is valid for one year from the date of issues after one year the petitioner compulsory renewal their institution but in the case the petitioner did not renewal their institution till now.

5. I submit that the department of Social Defence the Commissioner / Secretary, Chennai sent a D.O Letter No.879/SCPS/2017, dated 10.05.2017 to the every District Collector and District Child Protection Officer. The above letter said clearly section 41 of

the juvenile justice (care & protection of children) act, 2015 mandates registration all child care institutions and section 42 imposes imprisonment which may extend to one year or a fine of not less than one lakh rupees or both for those running child care institutions without registration. The Hon'ble High Court of Madras, Madurai bench in W.P.(M.D) No.16327 of 2015 has directed to take appropriate legal action against the children homes which are run without registration and to file a compliance report on the action taken by the government in this regard. In order to comply with the directions of the Hon'ble High Court instructions have been issued already to all the DCPOS to close down CCIS functioning without valid registration and also those pending for registration under section 41 of Juvenile Justice Act, 2015, end of academic year i.e., May 2017 as children would be in summer vacation and their education may not be disturbed. The closure of institutions shall be done in co-ordination with district administration."

4. However, when the matter is taken up for hearing, the learned Additional Government Pleader taking notice for the respondents submitted that the application of the petitioner dated 03.09.2016 would be considered by the second respondent on merits.

5. Considering the facts and circumstances of the case and having regard to the submissions made by the learned counsel on either side, this Court, without going into the merits of the case, directs the second respondent to consider the application of the petitioner dated 03.09.2016 and pass appropriate orders on merits and in accordance with law, after affording an opportunity of personal hearing to the petitioner as well as any other interested parties, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above direction, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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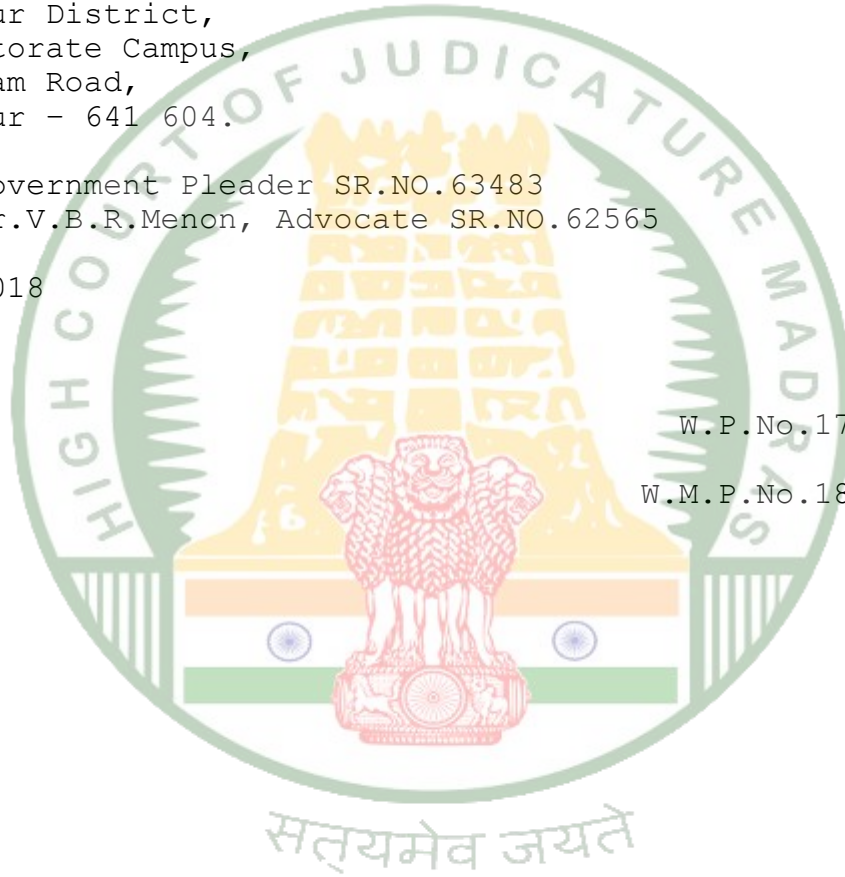
To

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2.The District Collector,
Tiruppur District,
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Tiruppur - 641 604.

+lcc to Government Pleader SR.NO.63483
+lcc to Mr.V.B.R.Menon, Advocate SR.NO.62565

sm:9.10.2018



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