

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.08.2018

CORAM

THE HON'BLE Mr. JUSTICE S.VAIDYANATHAN

W.P.No.13033 of 2018
and
W.M.P.No.15313 of 2018

Venkatesa Pandiyan

... Petitioner

Vs.

1. The Director,
The Director of Matriculation School,
DPI Campus,
Chennai - 600 006.

2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Mandamus, directing the respondents not to insist upon the 3 acre of land to run the petitioner's school in the name of Aishwarya Vidhayalaya Nursery and primary School in the name of the Primary School at No.21, 22, Arasu Garden, Miller's Road, Arani and process the application for recognition which was filed by the petitioner on 12.08.2015.

For Petitioner : Mr.D.Rajagopal

For Respondents : Mr.C.Munusakmy

Special Government Pleader.

O R D E R

The petitioner has come forward with the above Writ Petition praying for the issuance of writ of mandamus, to direct the respondents not to insist upon the 3 acre of land to run the petitioner's School in the name of Aishwarya Vidhayalaya Nursery and primary School in the name of the Primary School at No.21, 22, Arasu Garden, Miller's Road, Arani and process the application for recognition which was filed by the petitioner on 12.08.2015.

2. The petitioner contended that they have established a school in the name of Aishwarya Vidhayalaya Nursery and Primary School, Arani. The petitioner has obtained NOC from Fire and Rescue Department and also obtained Sanitary Certificate. They made necessary application before the Chief Educational Officer and that the Tahsildar has granted licence to the petitioner. Unfortunately, on 31.05.2017, the Chief Educational Officer issued notice directing not to admit new students. The petitioner has made a representation to the authorities. One of the condition is that the petitioner does not have sufficient space to run the School. The petitioner would contend that they have identified the land and they are going to purchase the land and that without insisting upon 3 acres of land, the petitioner may be permitted to run the School.

3. The Learned Special Government Pleader appearing for the respondents submitted that unless the requirement of land space is satisfied, the petitioner cannot run the school. If the petitioner produces necessary documents showing that they have sufficient space to run the School, their application would be considered in accordance with law.

4. Heard both sides and perused the materials available on record.

5. It is not in dispute that the petitioner has established a School. Admittedly, there is no sufficient space and that there is shortage of 3 acres of land for the petitioner to run the School. As long as there is want of space, the contention of the petitioner that they have identified the land and they are going to purchase the land, cannot be accepted. Unless and until they possess the land and the required space, there is no need for the authorities to give permission. The School is being constructed in a narrow space and the children and public will be affected and the children should not face one more Kumbakonam incident.

6. The learned Special Government Pleader appearing for the respondents relied on Clause 4(10) of G.O.Ms.No.175, School Education Department dated 20.07.2017 and he also produced the following G.Os:-

- G.O.No.48, School Education Department dated 21.07.2004
- G.O.No.49, School Education Department dated 01.03.2007
- G.O.No.238, School Education Department dated 26.11.2008
- G.O.No.24, School Education Department dated 23.04.2010
- G.O.No.135, School Education Department dated 18.08.2015
- G.O.No.175, School Education Department dated 20.07.2017
- G.O.No.73, School Education Department dated 22.04.2017

7. The learned Special Government Pleader addressed the Court based on the above said G.Os and stated that exemption is given to Schools which are in existence prior to the issuance of the above G.Os and the land extent was not insisted upon to those Schools. Learned Special Government Pleader further contended that G.O.No.175 dated 20.07.2017 is silent about the conditions for the existing Schools, and that the petitioner should possess 3 acres of composite land to run the School.

8. This Court is of the view that the relevant Government orders relating to the school children in this case, cannot be watered down. In this case, G.O.(2D)O.No.48, School Education Department dated 21.07.2004 was issued in the interest of the children, as also the subsequent G.Os. On a reading of the entire G.Os cited supra, it is very clear that it is applicable to 746 Schools that existed earlier.

9. I do not want to see another Kumbakonam incident for want of space and that Government officials must extend the full co-operation in not diluting the Government orders.

10. At this stage, it is represented by the learned counsel for the petitioner that the petitioner has purchased the land required for running the Schools and also submitted that if the documents are presented, the request of the petitioner may be considered in accordance with law.

11. Accordingly, the writ petition stands disposed of. This order will not preclude the petitioner from making necessary application after possessing sufficient land in their name, satisfying the conditions required by the respondents, and thereafter take necessary orders for the purpose of running the School. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

AT
To

1. The Director,
The Director of Matriculation School,
DPI Campus,
Chennai - 600 006.

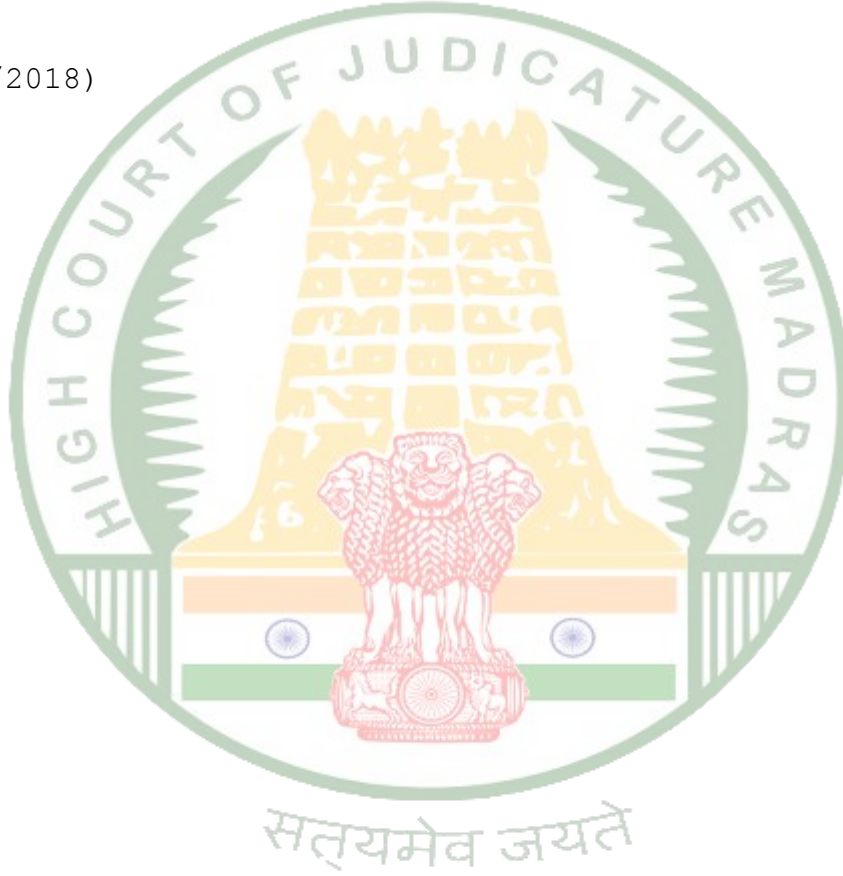
2. The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

+1cc to Mr.D.Rajagopal, Advocate, S.R.No.52354

+1cc to the Government Pleader, S.R.No.53253

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GSP(03/08/2018)



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