

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.02.2018

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THE HON'BLE MR.JUSTICE R.MAHADEVAN

W.P.No.1617 of 2018

and

WMP.No.2033 of 2018

Meadows Higher Secondary School
Represented by its Secretary
Angelo Gnanadurai
Kalayaarkurichi, M.Pudupatti Post,
Virudhunagar District.

..Petitioner

vs

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Director of Government Examinations,
DPI Campus, College Road,
Chennai - 600 006.
3. The Joint Director of school Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
4. The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

..Respondents

Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents 1,3 and 4 to grant permission to the petitioner school for starting Higher Secondary sections with 11th and 12th standards from the academic year 2016-17 based on the application submitted by the petitioner school dated 28.12.2015 followed by reminders, following the ratio laid down by this Court in Contempt Petition in Cont.Petn(MD)No.1391 of 2015 dated 30.11.2015 and WA(MD)No.279 of 2016 dated 22.02.2016 within a time frame to be fixed by this Court.

For Petitioner : Mr.G.Sankaran
For Respondents : M/s.C.Munusamy
Special Government Pleader
(Education)

O R D E R

This writ petition has been filed to issue a Writ of Mandamus, to direct the respondents 1, 3 and 4 to grant permission to the petitioner school for starting Higher Secondary classes i.e., 11th and 12th standards from the academic year 2016-17 based on the application submitted by the petitioner school dated 28.12.2015, in the light of the earlier order of this Court within a time frame to be fixed by this Court.

2.According to the petitioner, they submitted an application dated 28.12.2015 enclosing all the required documents to the third respondent, requesting to upgrade the school with 11th and 12th standards from the academic year 2016-17, which was returned for complying with certain defects. Consequently, they complied with all the defects as pointed out by the third respondent and re-submitted the application. However, the third respondent rejected the said application on 09.11.2017 on the ground that the continuance of recognition for standards 6 to 10 from 01.06.2017 and the DTCP approval for the school building constructed in the year 2007-08 and 2012, have not been submitted. Aggrieved against the same, the petitioner preferred an appeal before the first respondent, which is yet to be disposed of. Hence, this writ petition.

3.When the matter was taken up for consideration, the learned counsel for the petitioner submitted that the issue involved herein, with regard to upgradation of the school, without insisting the planning permission from the Director of Town and Country Planning, 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."

Therefore, the learned counsel sought for similar order in this writ petition also, for which, the learned Special Government Pleader appearing for the respondents has no serious objection.

4. Having regard to the submissions so made by the learned counsel on either side and also taking note of the fact that the petitioner school has already obtained planning permission from the Executive Authority of the Village Panchayat concerned, this Court is inclined to dispose of this writ petition in line with the aforesaid order.

5. Accordingly, this writ petition is disposed of, directing the first respondent to consider the appeal filed by the petitioner, seeking upgradation of the school, after getting clarification from the concerned Panchayats or from the Town and Country Planning Authorities, with regard to the planning permission already obtained from the petitioner 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. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Director of School Education,
DPI Campus, College Road,
Chennai - 600 006.
2. The Director of Government Examinations,
DPI Campus, College Road,
Chennai - 600 006.
3. The Joint Director of school Education (Higher Secondary),
Directorate of School Education,
DPI Campus, College Road,
Chennai - 600 006.
4. The Chief Educational Officer,
Virudhunagar District,
Virudhunagar.

+1cc to the Government Pleader, S.R.No.15898

W.P.No.1617 of 2018

VBA (CO)
CS/24/04/18

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