

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2018

CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P.No.28282 of 2018

M/s.Holy Angel School,
Represented by its Correspondent, K.Palaniappan,
Rettanai,
Tindivanam Taluk,
Villupuram District-604 306. ... Petitioner

Versus

- 1.The Director,
Director of School Education,
College Road,
Chennai-6.
- 2.The Chair Person,
Central Board of Secondary Education,
Shiksha Kendra, No.2 Community Centre,
Preeth Vikar, Delhi-92.
- 3.M/s.Green Paradise CBSE School,
Represented by its Correspondent,
Rettanai,
Tindivanam Taluk,
Villupuram District-604 306. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for the issue of Writ of Mandamus, directing the first respondent to consider the objection of the petitioner dated 26.09.2018 for grant of No Objection Certificate (NOC) to the 3rd respondent for the purpose of starting a new CBSE School as it is against provisions of School Education Act and its Regulation/Rules, since the entire locality is already well served and the petitioner is already running a CBSE School within 100 mts from the proposed CBSE School started by the 3rd respondent.

For Petitioner	:	Mr. E.Vijay Anand
For Respondent	:	Mrs.V.Annalakshmi
		Government Advocate

O R D E R

This writ petition has been filed for issuance of a Writ of Mandamus, directing the first respondent to consider the objection of the petitioner dated 26.09.2018 for the grant of No Objection Certificate to the third respondent, who intend to start a new CBSE School.

2 The contention of the petitioner is that the petitioner is running a CBSE School within 100 meters from the place where the third respondent has proposed to start a CBSE School and that he has some valid objections.

3 The question whether the petitioner, who is an existing educational institution can raise any objection for the grant of NOC or opposed any one from starting another school in the nearby vicinity, has been considered by this Court in several judgments. This Court has earlier considered the issue and reiterated the position in the order passed in W.P.No.21742 of 2018, dated 07.09.2018 [Kalaimagal Nursery and Primary School vs. The Director of Matriculation Schools, DPI Campus, College Road, Chennai and another] wherein it has been held as follows:-

'5. The learned counsel for the petitioner states that the neighbouring school cannot raise an objection as it has no locus standi to question another school, being established or started in the nearby vicinity. In a similar case, in W.P.No.9879 of 2010 (Solomon Matriculation School Vs. The Chief Educational Officer, Turticorin) and by judgment dated 11.10.2011, learned Single Judge of this Court following the earlier judgment of this Court in the case of Aided Elementary School rep. by M.Rajagopalm Mullichettipatti, Thinnapatti Post Vs. Government of Tamil Nadu, rep. by its Secretary, Education Department, Chennai and others reported in 1997 writ LTR 862, dismissed the writ petition, which was filed by a neighbouring school for issuance of a direction to the official respondents to take necessary steps to close the school only on the ground that the school was started without getting No Objection Certificate from the neighbouring school within a radius of one kilometer.

6.This Court has already held that running of school should be considered not as a business and that therefore running of another school will not amount to competition. It was therefore anyone who is running a school already cannot have any grievance or challenge somebody else starting any

institution in the nearby vicinity. Such person, who has got an existing school has no locus standi to question the recognition granted to any other institution.

7.The position was made clear later by yet another Judgment in the case of St. Arokia Annai School Vs. The Director of School Education dated 14.06.2012 wherein the learned single Judge of this Court has held as follows:

"4. As to whether a neighbouring school has right to object for the starting of a school came to be considered by a learned judge of this Court in Aided Elementary School rep. by M.Rajagopal, Mullichetti vs. the Government of Tamil Nadu and others reported in 1997 Writ L.R.862. This Court held that in such matters, the neighbouring School has no locus standi to bring any Writ petition to this Court. This Court held that running of another School will not amount to competition and the neighbouring school have no locus standi to challenge the policy of the Government, as it is not to offend their right and they have no legal right to be heard.

5.Under the circumstances, this Court is not inclined to entertain the Writ petition. It is always open to the authorities to consider the application of the 3rd respondent in accordance with law. But, that does not mean that the petitioner can file the Writ petition and seek for a direction to consider the application of the 3rd respondent. The Writ petition is thoroughly misconceived and bereft of legal reasons. Accordingly the writ petition stand dismissed. No Costs.''

8.In view of the above precedents referred to, this Court is of the view that the respondents cannot insist the petitioner to get No Objection Certificate from anyone or a neighbouring school merely because such school has filed a writ petition. It is for the respondents to cite the precedents referred to above and see to it, that the writ petition filed by neighbouring school is dismissed on merits.''

4 In view of the same, this Court is of the view that the petitioner has no locus standi to raise objection for anyone starting a new school in the area, where the petitioner is already running a school. Since the purpose of representation is

only to direct the respondent to consider the objections of the petitioner's, there is no scope for entertaining this writ petition. As a result, this writ petition is dismissed. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Director,
Director of School Education,
College Road,
Chennai-6.
- 2.The Chair Person,
Central Board of Secondary Education,
Shiksha Kendra, No.2 Community Centre,
Preeth Vikar, Delhi-92.

+1cc to Government Pleader in sr.no.74384

+1cc to Mr. E.Vijay Anand, Advocate sr.no.73757

W.P.No.28282 of 2018

sj(co)
nr 10/01/2019

सत्यमेव जयते
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