



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.04.2018

CORAM:

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THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD) No. 6160 of 2018

Rosemary Educational Society,
Rep. by Secretary,
No.2, Meignana Street,
Palayamkottai,
Tirunelveli 627002.

.. Petitioner

vs.

1. The Director of Collegiate Education,
Department of Higher Education,
Government of TamilNadu,
9th floor, EVK Sampath Buildings,
College Road, Chennai- 600 006.
2. The District Collector,
Tirunelveli District.
3. The District Revenue Officer,
Tirunelveli District.
4. The Joint Director of Collegiate Education,
Department of Higher Education,
Tirunelveli District.
5. The Member Secretary,
Local Planning Authority,
Tirunelveli.
6. The President
Muthoor Village,
Palyamkottai,
Tirunelveli District

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, directing the first respondent to accord permission to start the Rosary Arts and Science College for Women by the petitioner for the academic year



For Petitioner : Mr. A. Sivaji
For Respondent : Mr. J. Gunaseelan Muthiah
No. 1 to 5 : Additional Government Pleader
No. 6 : Mr. M. Pandiyarajan
Additional Government Pleader

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ORDER

The ground on which the petitioner's request for permission to Rosary Arts and Science College for Women is that the management had not obtained planning permission from the Town Country and Planning Authorities and there was no facility to facilitate 600 proposed students.

2. Insofar the non facilitation of toilets are concerned, the petitioner herein submitted that they had already constructed toilets to facilitate 600 students for the proposed college.

3. Insofar as the condition that the petitioner had not got the approval from the Town Country and Planning Authorities, the learned counsel for the petitioner relied upon the judgment of the Hon'ble Division Bench of this Court in ***The Director of Matriculation Schools, Directorate of Matriculation Schools, DPI Campus, Chennai-5 -vs- Kaviyan School, rep by its Correspondent*** reported in 2016(1)CWC 130. The relevant portion of the said order is as follows:

"The order of the learned Single Judge setting aside the entire impugned proceedings of the Appellant dated 18.11.2017, may not be justified. The only issue that had been addressed is whether a separate Approval should be granted by the Town and Country Planning Authorities. Proviso to Rule 25 of the Rules makes it clear that Executive Authority, namely, Village Panchayat, should do an act in a particular manner. There is no prescription in the Rules that the school concerned should seek Approval directly from the Town and Country Planning Authorities. Therefore, such a requirement in the impugned proceedings is unwarranted. That, however does not preclude the Director of Matriculation Schools, the Appellant herein, from asking relevant particulars from the Panchayat concerned or the Town and Country Planning Authorities and find out whether Approval is granted, in the manner that law requires. In case, the Village Panchayat, for some reason has not done its duty, the Director of Matriculation Schools can very well call upon the Panchayat to



get Approval from the Town and Country Planning Authorities or Write to the District Collector or any other Competent Authority to take action on the said person, in accordance with law, so that defects can be cured".

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4. From the aforesaid decision, it is seen that as per the proviso to Rule 25 of the Rules, it is sufficient if the approval is granted by the local authority and that there is no specific rules mandating that the petitioner should obtain permission from the Town and Country Planning Authorities. In view of the same, the respondents may not be justified in getting approval from the Town and Country Planning Authorities.

5. It is also brought to my notice that justifying these reasons, the petitioner had also given reply on 16.02.2018 to the second respondent herein. In my view, if the second respondent is directed to consider the said reply, ends of justice would met. Hence there shall be a direction to the second respondent to consider the petitioner's representation dated 16.02.2018 in the light of the above observation and pass appropriate orders within a period of two weeks from the date of receipt of a copy of this order.

7. With the above direction, this writ petition stands allowed. No costs.

sd/
Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

aav

To

1. The Director of Collegiate Education,
Department of Higher Education,
Government of TamilNadu,
9th floor, EVK Sampath Buildings,
College Road, Chennai- 600 006.

2. The District Collector, Tirunelveli District.

3. The District Revenue Officer, Tirunelveli District.

4. The Joint Director of Collegiate Education,
Department of Higher Education,

<https://hcservices.tn.gov.in/hcservices/> District.



5. The Member Secretary,
Local Planning Authority, Tirunelveli.

6. The President, Muthoor Village,
Palyamkottai, Tirunelveli District.

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+1cc to Spl.Govenrment Pleader Advocate in SR.No.65019

GJM/PN/SAR-3-1.6.18-4p-8c

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