

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.10.2019

CORAM:

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition No.1077 of 2013 and
M.P.No.1 of 2013

Sri Vijay Vidyalaya Educational Trust
rep. By its Chairman
D.N.C.Manivannan,
D.N.C.Compound,
Gandhi Nagar, Dharmapuri,
Dharmapuri District-636 701. Petitioner

Vs

1. The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai-600 002.
2. The Deputy Director of Town & Country
Planning, Dharmapuri Region,
No.83, Pidamaneri Road,
Appavu Nagar,
Dharmapuri-636 701,
Dharmapuri District. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari, calling for the records relating to the order of the 1st respondent dated 20.6.2011 in Na.Ka.No.14674/2011 PA2 only in so far as it relates to the Special Condition imposed on the petitioner and the consequential order of the 2nd respondent dated 19.6.2012 in Na.Ka.No.1297/2012.Thi.Ma. and quash the same.

For Petitioner : Mr.K.Selvaraj

For Respondents : Mr.D.Raghu, Govt. Advocate
1 and 2

O R D E R

Challenging the correctness of the impugned order dated 20.6.2011 passed by the Director of Town and Country Planning, the 1st respondent herein in Na.Ka.No.14674/2011 PA2 only in so

far as it relates to the Special Condition imposed on the petitioner and the consequential order of the 2nd respondent dated 19.6.2012 in Na.Ka.No.1297/2012.Tha.Ma. and quash the same, the present Writ Petition has been filed.

2. Learned Counsel appearing for the petitioner submitted that when the petitioner Trust wanted to establish an Engineering College under the name and style of 'Sri Vijay Vidyalaya College of Engineering & Technology', they made an application to the All India Council for Technical Education, Southern Region. The said application was processed by the All India Council For Technical Education (AICTE), who in turn, asked the petitioner to obtain an Approval from the Director of Town & Country Planning for the Building. Therefore, they submitted an application to the Deputy Director of Town and Country Planning, Dharmapuri Region, the 2nd respondent herein for necessary approval. After scrutinizing the application for approval of the building put up by the petitioner, the 2nd respondent forwarded the application to the 1st respondent for passing necessary orders. The 1st respondent, thereafter, by order dated 20.6.2011 has granted the approval for building put up by the petitioner to start the said Engineering College in the Survey Numbers 5/1, 2, 6/1,2,3, 4A, 4B, 16/1,2,3, 17/1, 2A, 3B, 4, 5, 37/1C and 37/1D measuring 53,200 sq.meters situated at Nallampalli Village, Dharmapuri District. However, in the said order, the 1st respondent has imposed a special condition on the petitioner to transfer the Open Space Reservation (OSR) in favour of the Local Panchayat by way of a Registered Gift Deed. Challenging the same, the petitioner has filed the present Writ Petition.

3. The learned Counsel for the petitioner further submitted that during the pendency of the Writ Petition, by letter dated 21.12.2012, the Consortium of Self-financing Professionals, Arts and Science Colleges in Tamil Nadu had requested for reduction of infrastructure and amenities charges for buildings constructed prior to 1.7.2007 as the Infrastructure and Amenities Charges were introduced only on 01.06.2007. They have also requested to relax the condition stipulated in Development Control Regulations which necessitates handing over the Open Space Reservation area to the respective local bodies, instead, they have requested to allow the respective institutions to maintain the Open Space Reservation areas as parks. In reply to the said request, the Government has passed G.O.Ms.No.161, Housing and Urban Development [UD4(3)]Department dated 26.6.2013 inter alia in respect of the educational institutions for whom the Open Space Reservation Regulation is applicable, the Open Space Reservation shall be earmarked and kept open to sky

without any construction with the condition that the Open Space Reservation area should be utilized only as a park and not as a playground by the concerned institutions.

4. It is relevant to extract the paragraph No.7 of the G.O.Ms.No.161 dated 26.06.2013 here under:

''7. The Government after careful consideration of the request of the consortium of self-financing Professionals, Arts and Science Colleges in Tamil Nadu in consultation with the Commissioner of Town and Country Planning and the Member Secretary, Chennai Metropolitan Development Authority hereby direct as follows:

- The rates of infrastructure and Amenities Charges for all categories of non-multi storeyed buildings like residential, commercial, information Technology, group development and special buildings which were constructed on or before 1.7.2007, with the permission of the local bodies, shall be fixed at 50% of the prevailing current rates as Infrastructure and Amenities Charges;
- The above concession shall be available to those buildings who apply for planning permission from the Member-Secretary, Chennai Metropolitan Development Authority and Commissioner of Town and Country Planning within six months from the date of issue of orders;
- In respect of educational institutions for whom the Open Space Reservation Regulation is applicable, the Open Space Reservation shall be earmarked and kept open to sky without any construction with the condition that the Open Space Reservation area should be utilized only as a park and not as a playground by the concerned institutions. The guideline value should not be collected in lieu of Open Space Reservation area in such cases.''

5. Heard the learned Government Advocate appearing for the respondents.

6. Considering the facts and circumstances of the matter and also the fact that the Government has already passed G.O.Ms.No.161, Housing and Urban Development [UD4(3)]Department dated 26.6.2013 stating that the Open Space Reservation shall be earmarked and kept open to sky without any construction with the condition that the Open Space Reservation area should be utilized only as a park and not as a playground by the concerned

institutions, following the said guidelines, the present Writ Petition is ordered accordingly. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1. The Director of Town & Country Planning,
No.807, Anna Salai,
Chennai-600 002.
2. The Deputy Director of Town & Country
Planning, Dharmapuri Region,
No.83, Pidamaneri Road,
Appavu Nagar,
Dharmapuri-636 701,
Dharmapuri District.

+1 cc to the Government Pleader sr86502
+1 cc to Mr.K.Selvaraj Advocate sr85995

W.P.No.1077/2013

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