

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.2489 of 2019
and Contempt Petition No.1032 of 2017

A.Nabeela .. Petitioner in both Petitions

vs.

1. The State of Tamil Nadu
Rep by its Secretary to Government,
Department of Higher Education,
Fort St.George,
Chennai 600 009.
 2. The Registrar,
Bharathidasan University,
Trichy.
 3. The Director of Collegiate Education,
The Directorate of Arts and Science College,
College Road, Chennai 600 006
 4. The Joint Director of Collegiate Education,
Tanjavur Zone,
Tanjavur
- ... Respondents i WP No.2489/19
1. Mrs.Manjula,
The Director,
The Directorate of Arts & Science College,
College Road,
Chennai - 600 006.

PRAYER in W.P.No.2489 of 2019: Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the third respondent to send the Expert Committee for inspection and communicating the final decision on the application submitted by the petitioner dated 29.09.2016 for starting the Arts and Science College at Adirampattinam, Thanjavur District for the academic year 2019-2020 without insisting for the building plan permission for the existing building plan from the town planning authorities.

Contempt Petition No.1032 of 2017: This petition has been filed to punish the respondent for the wilful disobedience of the order of this Court dated 17.04.2017 and made in W.P.No.9087 of 2017.

For Petitioner : Mr.M.Md.Ibrahim Ali

For Respondents in : Mr.V.Kadhirvelu
WP & Cont.Petn Special Government Pleader

O R D E R

The Writ Petition is filed seeking for issuance of Writ of Mandamus to send the Expert Committee for inspection and communicate the final decision on the application submitted by the petitioner dated 29.09.2016 for starting the Arts and Science College at Adirampattinam, Thanjavur District for the academic year 2019-2020 without insisting for the building plan permission.

2. Already, the Petitioner in this Writ Petition had filed a Writ Petition in W.P.No.9087 of 2017 seeking for a mandamus to direct the third respondent to send the Expert Committee for inspection and communicate the final decision to her and this Court, vide order dated 17.04.2017, directed the third respondent to send the Expert Committee for inspection and communicate the final decision taken on the application submitted by the petitioner dated 29.09.2016, within a period of four weeks from the date of receipt of that order.

3. Subsequently, the petitioner had also filed a Contempt Petition No.1032 of 2017 seeking to punish the third respondent for the wilful disobedience of the order of this Court dated 17.04.2017 passed in W.P.No.9087 of 2017. Thereafter, the third respondent had inspected the premises and filed a status report.

4. Today, Mr.V.Kadhirvelu, learned Special Government Pleader (Higher Education) appearing for the respondents filed the status report dated 23.03.2019 stating that there are certain deficiencies to be complied with by the petitioner and the petitioner-College was directed to resubmit their application after rectifying the same. However, the said order was passed only on 23.03.2019, almost after two years, since the order in W.P.No.9087 of 2017 was passed.

5. Be that as it may, once again, the very same petitioner has filed the present Writ Petition No.23489 of 2019 for an identical prayer seeking for a mandamus directing the third

respondent to send the Expert Committee for inspection and communicate the final decision on the application submitted by the petitioner dated 29.09.2016 for starting the Arts and Science College at Adirampattinam, Thanjavur District for the academic year 2019-2020. The said Writ Petition was filed on 21.01.2019 for the reasons best known to the petitioner.

6. When already a direction sought for is granted and the Contempt Petition is also pending, the second Writ Petition filed with the same prayer by the same petitioner is unwarranted and it is only an abuse of process of Court. Therefore, W.P.No.2489 of 2019 is liable to be dismissed with costs. Accordingly, the petitioner is directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) as costs to the Chief Justice Relief Fund of this Court within a period of six weeks from the date of receipt of a copy of this order.

7. So far as the Contempt Petition is concerned, the petitioner has filed the Contempt Petition only because of the non-compliance of the direction given by this Court to the third respondent. The Joint Director of Collegiate Education, Thanjavur Zone, Thanjavur/the fourth respondent has submitted the report, vide letter R.C.No.0495/A2/2018 dated 14.03.2018 to the Director stating that the Petitioner-College is lacking with infrastructural facilities. If the said report has already been communicated to the petitioner College pointing out the deficiencies and defects, the College is directed to comply with the same and submit compliance report to the third respondent within a period of four weeks from the date of receipt of a copy of this order. On receipt of the same, the third respondent is directed to consider the same and pass appropriate orders on merits within a period of two weeks thereafter.

8. Despite the order of this Court, the third respondent has wilfully disobeyed the same and has not even filed the counter in the Contempt Petition also. Only at the time of hearing of the instant Writ Petition today, the status report was filed. The learned Special Government Pleader is also unable to say as to whether the said Status Report was communicated to the petitioner-College. Therefore, for the time taken by the respondents-authorities, this Court is of the opinion that costs should be imposed. Accordingly, the respondents are directed to pay a sum of Rs.10,000/- (Rupees ten thousand only) as costs to the Chief Justice Relief Fund of this Court within a period of six weeks from the date of receipt of a copy of this order.

9. With the above directions, the Contempt Petition is closed. W.P.No.2489 of 2019 is dismissed. No costs.

Sd/-
Deputy Registrar(CS)

//True copy//

Sub Assistant Registrar

srn

To

1. The Secretary,
Department of Higher Education,
Government of Tamil Nadu,
Fort St.George, Chennai 600 009.
2. The Registrar,
Bharathidasan University,
Trichy.
3. The Director of Collegiate Education,
The Directorate of Arts and Science College,
College Road, Chennai 600 006
4. The Joint Director of Collegiate Education,
Tanjavur Zone,
Tanjavur
5. The Sub Assistant Registrar,
Accounts Section,
High Court, Madras सत्यमेव जयते

+1cc to Mr.M.MD.Ibrahim Ali, Advocate SR.No.41626

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W.P.No.2489 of 2019
and Contempt No.1032 of 2017

KK(CO)
GMY(23/05/2019)