

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 16.04.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.2946 of 2019
and
W.M.P.No.3217 of 2019

V.S.B.Educational Trust,
Represented by its Managing Trustee,
Mrs.Indrani,
No.204, Dharapuram Road,
Kangayam,
Tirupur - 638 701.

... Petitioner

Vs.

- 1.The Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
 - 2.The Directorate of Collegiate Education,
Rep. by its Director,
Department of Higher Education,
Government of Tamil Nadu,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai - 600 006.
 - 3.The Bharathidasan University,
Rep. by its Registrar,
Khajamalai Campus,
Tiruchirappalli,
Tamil Nadu, India.
 - 4.The All India Council for Technical Education,
Rep. by its Member Secretary,
6, Vasant Marg,
Vasant Vihar,
New Delhi - 110 007.
- .. Respondents

PRAYER : Writ Petitions filed Under Article 226 of the
Constitution of India praying to issue a Writ of declaration
declaring that the insistence of the No Objection Certificate

from the respondents 1 and 2, citing G.O.Ms.No.356 dated 29.09.2009, issued by the 1st respondent or otherwise for the purpose of affiliating the new Arts and Science Courses, in the existing Technical Education Colleges, as illegal and consequently direct the 3rd respondent to receive and grant affiliation to the Arts & Science courses during the academic year 2019-2020, without insisting for the No Objection/Letter of Intent from the respondents 1 and 2.

For Petitioner : Mr.N.Muralikumaran
for M/s.Mcgan Law Firm

For RR1 & 2 : Mr.V.Kadhirvelu
Special Government Pleader

For R3 : Mr.V.Govardbanan
for M/s.Row & Reddy

For R4 : Mr.B.Rabu Manohar

O R D E R

The writ petition has been filed by the petitioner, who is the educational trust for declaration that the first and second respondents should not insist on the No Objection Certificate from the petitioner citing G.O.Ms.No.356 dated 29.09.2009.

2. Heard the learned counsel appearing on both sides.

3. The petitioner trust was running a M.B.A. Course, which was permitted to be closed on by the AICTE and the Anna University, from the academic year 2017-18 due to poor demand for M.B.A. After the No Objection Certificate was obtained from the Anna University and AICTE, the petitioner trust had passed a resolution on 10.08.2018 to commence an Arts and Science Courses in the land measuring an extent of 5.07 acres out of the total extent of 32.28 acres of land owned by the petitioner trust and the superstructure therein with a build up area of 1842.85 sq.mtrs. Therefore, the petitioner has filed an application for affiliation of the Arts and Science courses with the third respondent University, which was not even accepted by the third respondent. The petitioner also had made an application dated 25.09.2018 to the second respondent seeking No Objection to commence Arts and Science Courses in the place where M.B.A. Course was conducted by the petitioner. The said application was considered by the respondents 1 and 2 and the communication dated 10.01.2019 was sent. Thereafter, the petitioner had responded and submitted the documents vide letter dated 24.01.2019, which was scrutinised carefully and the defects

found in the documents submitted by them were communicated to the Director of Collegiate Education on 13.02.2019.

4. It is pointed out by the learned counsel appearing for the respondents 1 and 2 that the land allotted for starting self financing Arts and Science College should be continuous and in compact block. In G.O.Ms.356, Higher Education (E1) Department, dated 29.09.2009, guidelines have been issued for starting Self Financing Arts and Science College and it is stated in the G.O. that new Self Financing Arts and Science colleges should be started in the permanent building with sufficient Class rooms, Laboratory, Library and Toilet rooms. After compliance of the defects pointed out by the respondents in the letter dated 10.01.2019, the petitioner had once again submitted the application on 24.01.2019 with compliance report.

5. The only grievance of the petitioner is that obtaining no objection from the first respondent for Arts and Science branch is only unnecessary and uncalled for, as already the College had housed M.B.A. Course and the infrastructure required is in place. Hence, the College had, citing all that, resubmitted the application along with compliance of the defects on 24.01.2019. Thereafter, on 13.02.2019, it is stated that a communication was again sent to the College pointing out the non compliance of certain defects. Once again the College had sent a letter dated 07.03.2019 stating that the No Objection Certificate required under G.O.Ms.No.356 dated 29.09.2009 is not warranted, as the College is going to be started only on the existing building. Therefore, the writ petition is filed for a declaration directing the first and second respondents not to insist on the No Objection Certificate.

6. As per G.O.Ms.No.356, dated 29.09.2009, the petitioner College wants to commence a new Arts and Science Course in the place where originally they housed M.B.A. Course. Thus, for all purpose, the land building and infrastructure are the same for commencing Arts and Science College. It is an establishment of a new College under Section 3 of the Private Colleges (Regulation) Act. Section 3 of the Act reads as follows:

"3. New Private college to obtain permission -
Save as otherwise expressly provided in this Act, no person shall, without the permission of the Government and except in accordance with the terms and conditions specified in such permission, establish, on or after the date of commencement of this Act, any private college :

Provided that it shall also be necessary to obtain affiliation of such college to a University."

7. When the statute insist on compliance of certain formalities, the petitioner cannot refuse to comply with the same. Obtaining permission from the Government to establish a new Private College is the permission prescribed in the statute and hence, the petitioner cannot say that it can be exempted. However, the respondents 1 and 2 can consider the fact that already the petitioner trust was running a College in the same place by obtaining the consent of the Government in granting the same.

8. As for all purpose, it is an establishment of new Arts and Science College, the petitioner is expected to comply with the conditions prescribed in the statute. As already the same respondents 1 and 2 had granted permission for that College, the respondents 1 and 2 are directed to consider the application of the petitioner and pass appropriate orders as expeditiously as possible to enable the College to start the admission from the forthcoming academic year.

9. With the above directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

Rsi

TO

1.The Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2.The Director,
The Directorate of Collegiate Education,
Department of Higher Education,
Government of Tamil Nadu,
9th Floor, EVK Sampath Buildings,
College Road,
Chennai - 600 006.

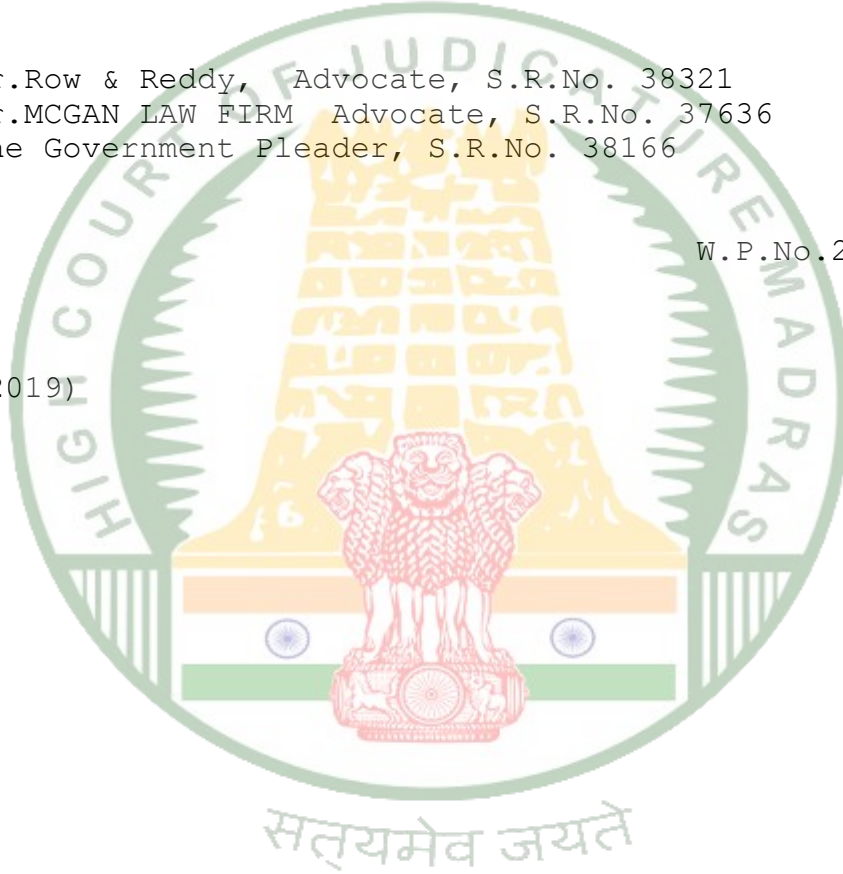
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Tamil Nadu, India.

4.The Member Secretary,
The All India Council for Technical Education,
6, Vasant Marg,
Vasant Vihar,
New Delhi - 110 007.

+1cc to Mr.Row & Reddy, Advocate, S.R.No. 38321
+1cc to Mr.MCGAN LAW FIRM Advocate, S.R.No. 37636
+1cc to the Government Pleader, S.R.No. 38166

W.P.No.2946 of 2019

KAK(CO)
GN(09/05/2019)



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