

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.02.2019

CORAM

THE HONOURABLE Mrs. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.4996 of 2019

St. Shebahsthiyar Higher Secondary School,
Represented by its
Correspondent R.A.P. Arockiadoss,
Kameswaram East,
Kizhvellur Taluk,
Nagapattinam District - 611 110.

.. Petitioner

Vs.

The Director of School Education (Higher Secondary),
DPI Compound,
College Road,
Chennai - 600 006.

.. Respondent

PRAYER : Writ Petitions filed Under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondent to receive and process the application dated 16.06.2016 followed by representation dated 20.12.2018 of the petitioner for Up gradation of petitioner school from Matriculation School to Higher Secondary School for starting classes XIth and XIIth standards without insisting upon Building Plan approval from the Directorate of Town and Country Planning (DTCP) in view of settled proposition of law.

For Petitioner : Mr.E.Vijay Anand

For Respondent : Ms.P.Kavitha
Government Advocate (Education)

ORDER

The prayer of the petitioner is to direct the respondent to receive and process the application dated 16.06.2016 followed by his representation dated 20.12.2018 for Upgradation of petitioner school from Matriculation School to Higher Secondary School for starting classes XI and XII standards without insisting upon Building Plan approval from the Directorate of Town and Country Planning (DTCP) in view of the settled proposition of law.

2.It is the case of the petitioner that on 16.06.2016, the petitioner-School had applied for upgradation of School from Matriculation to Higher Secondary level with standards XI and XII. The Chief Educational Officer, Nagapattinam after verifying all the particulars, had recommended for grant of upgradation of the School. But, the respondent herein, vide his proceedings No.O.Mu.No.092792/W4/E1/2018 dated 02.02.2018, has rejected the petitioner's request stating that the building plan approval was not granted by the Directorate of Town and Country Planning (DTCP). The grievance of the petitioner is that the building plan approved by the Competent Authority, namely, the Executive Officer, Village Panchayat was not considered by the respondent. Hence, the petitioner made a representation dated 20.12.2018 to the respondent to issue 'No Objection Certificate' for upgrading the school without insisting upon the DTCP approval by accepting the approval granted by the panchayat in respect of the building. Seeking a direction to the respondent to consider the said representation, the petitioner school is before this Court.

3. Learned counsel for the petitioner submitted that the petitioner school is entitled for NOC, having received the approval from the concerned panchayat. In support of his submissions, learned counsel relied upon the judgment of a Division Bench of this Court in Tamil Nadu Unaided Polytechnic Management Association V. The State of Tamil Nadu, 2018 (4) CTC 129.

4. Heard the learned Government Advocate (Education) on the above submissions. He relied on the order of this Court dated 10.12.2018 in W.P.No.18539 of 2018 etc. batch negating a similar prayer made by the educational institutions.

5. Considering the facts and circumstances of the case and the submissions made on either side, this Court, without expressing any opinion on the merits of the representation, directs the respondent to consider the petitioner's representation dated 20.12.2018 in the light of the judgments cited supra and pass appropriate orders, on merits and in accordance with law, after issuing notice to the petitioner and the persons interested in this regard and also affording them an opportunity of personal hearing, within a period of six weeks from the date of receipt of a copy of this order.

6. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

srn

To

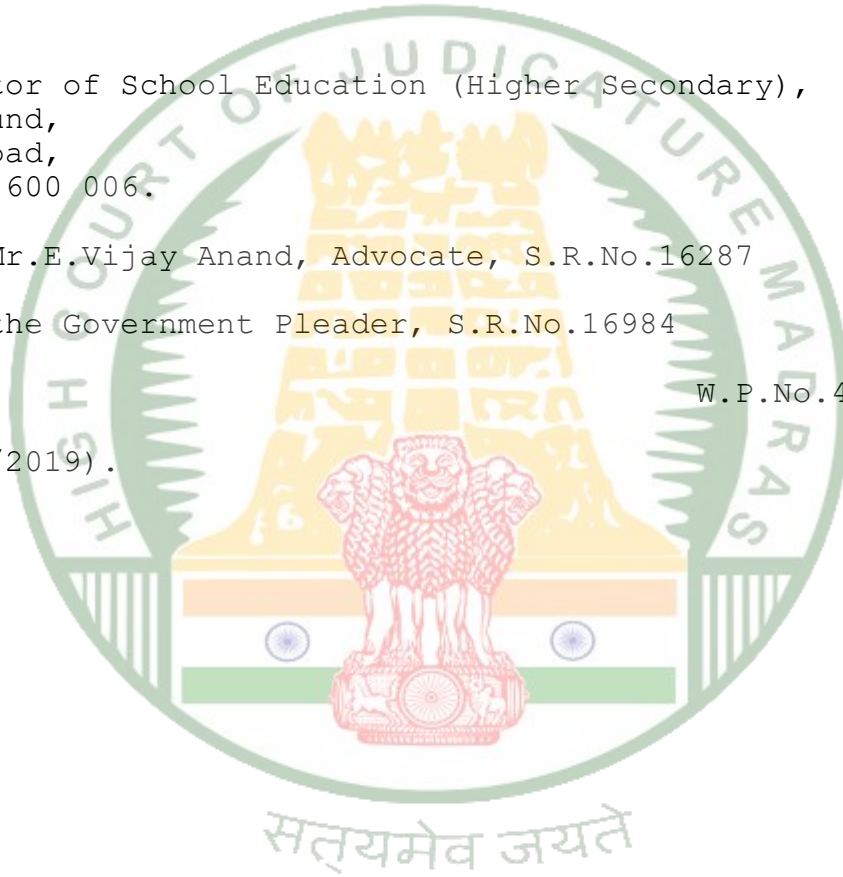
The Director of School Education (Higher Secondary),
DPI Compound,
College Road,
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+1 cc to Mr.E.Vijay Anand, Advocate, S.R.No.16287

+1 cc to the Government Pleader, S.R.No.16984

W.P.No.4996 of 2019

GJ(CO)
SSM(22/04/2019).



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