

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 30.04.2019

CORAM

THE HONOURABLE MRS. JUSTICE PUSHPA SATHYANARAYANA

W.P.No.13085 of 2019

and

W.M.P.No.13211 of 2019

Dr.Lemire School of Excellence,
(A unit of Trinity Educational Trust),
Rep. by its Managing Trustee/Correspondent,
Mr.V.Ambiappan,
No.47, Sivan Koil Street,
Vettavalam - 606 754,
Thiruvannamalai District. ... Petitioner

Vs.

- 1.The Director,
Directorate of Matriculation Schools,
DPI Campus,
College Road, Chennai - 600 006.
- 2.The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.
- 3.The District Educational Officer,
Thiruvannamalai District,
Thiruvannamalai. .. Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for records and quash the impugned notice issued by the second respondent in his proceedings in R.C.No.7462/A2/2018 dated 06.02.2019 and consequently directing the second respondent to drop all the proceedings thereof in light of the reply letter dated 15.03.2019.

For Petitioner : Mr.D.Baskar

For Respondents : Mrs.P.Kavitha
Government Advocate

O R D E R

The writ petition has been filed challenging the impugned notice issued by the second respondent in his proceedings in R.C.No.7462/A2/2018 dated 06.02.2019 and consequently directing the second respondent to drop all the proceedings thereof in the light of the reply letter dated 15.03.2019.

2. The petitioner school is a unit of Trinity Educational Trust incorporated under the provisions of the Societies Registration Act, vide a trust deed dated 08.05.2000, registered as document No.74 of 2000 in the office of the District Registrar, Thiruvannamalai. The property, wherein, the school is being run was taken on lease by the petitioner vide a lease deed bearing document No.775 of 2001. The petitioner was granted with the permission to run the school in the leased out premises from standards I to VII vide the proceedings of the first respondent in R.C.No.5686/E2/2002 and subsequently the school obtained the recognition from the first respondent vide its proceedings in K.Dis.No.6473/E2/2002. Thereafter, the petitioner obtained permission of the first respondent for commencing standards VIII & IX vide the proceedings dated 31.10.2006 in Mu.Mu.No.8529-2/E5/2005 and also renewed the recognition for another period of 3 years. Thereafter, the petitioner upgraded its standard and commenced X standard by virtue of the permission granted by the first respondent in O.Mu.No.3565/A4/2007 dated 30.09.2008.

3. The trustees decided to purchase the property, where the school is being run, from its owner one Sulochana and a sum of Rs.12,50,000/- was fixed as the sale price and a sum of Rs.10,00,000/- was also paid in two installments on 01.07.2007 and 21.07.2007 and the balance being Rs.2,50,000/- was agreed to be paid on the date of execution of sale deed. In spite of repeated demands made by the trustees, the said Sulochana refused to execute the sale deed and also denied the receipt of the said sum of Rs.10,00,000/-. Hence, the petitioner filed a suit before the District Judge, Thiruvannamalai for specific performance. It is stated that the petitioner school was licensed to operate a school in the said address as per the license issued by the Tahsildar of Thiruvannamalai under Form D for the periods from 01.06.2008 to 21.05.2011. The petitioner submitted an application for renewal of recognition dated 10.09.2009, but the same was not considered by the second respondent and the Tahsildar of Thiruvannamalai has not issued Form 'D' license for want of renewal of lease.

4. In the above circumstances, the third respondent conducted an inspection on the petitioner-school on 22.10.2018 and found certain defects, which includes non-renewal of

recognition and inadequate infrastructure. However, the second respondent vide its proceedings dated 08.11.2018 in Na.Ka.No.7298/A2/2018 issued a notice to the petitioner calling upon them to give explanation. After complying with all the defects pointed out by the third respondent, the petitioner has sent reply letter dated 18.12.2018 to the second respondent. The second respondent, without considering the reply sent by the petitioner, issued a show cause notice in R.C.No.7462/A2/2018 dated 06.02.2019, calling upon the petitioner to show cause as to why Section 18(5) of the Right of Children for Free and Compulsory Education Act, 2009, could not be invoked for running the school without obtaining certificate of recognition. The petitioner through its counsel submitted its reply cum representation dated 15.03.2019 detailing the above said facts and sought for remedy by way of granting permission to run the school for the next academic year 2019-20. In the aforesaid circumstances, the petitioner is before this Court with this writ petition.

5. Heard the learned counsel appearing on both sides.

6. The impugned order is only a show cause notice, as the petitioner has been running the school without obtaining necessary certificate of recognition from the competent authority. In response to the show cause notice, the petitioner also has sent a reply through his lawyer on 15.03.2019, which is yet to be considered and disposed of.

7. The learned Government Advocate appearing for the respondents states that the school has not renewed the lease for the land. Unless the relevant documents are produced by the petitioner for processing the certificate of recognition, the request of the petitioner could not be considered.

8. Be that as it may, the petitioner has given its reply to the show cause notice dated 15.03.2019 and the same was said to be not disposed of. However, the learned Government Advocate submits that there are more than 7000 schools, which were issued closure notices. The learned Government Advocate is not able to state as to whether the petitioner has also been issued with the closure notice. However, if such notice is not issued, the second respondent is directed to consider the petitioner's reply dated 15.03.2019 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 due opportunity of personal hearing within a period of four weeks from the date of receipt of a copy of this order.

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

Sd/-
Assistant Registrar(CS-IV)

//True copy//

Sub Assistant Registrar

rsi

To

1.The Director,
Directorate of Matriculation Schools,
DPI Campus,
College Road, Chennai - 600 006.

2.The Chief Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

3.The District Educational Officer,
Thiruvannamalai District,
Thiruvannamalai.

+1cc to Mr.D.Baskar, Advocate SR.No.43294

+1cc to Government Pleader, High Court, Madras SR.No.43306

W.P.No.13085 of 2019
and
W.M.P.No.13211 of 2019

SJ(CO)
GMY(07/06/2019)

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