

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2019

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

WRIT PETITION NO.17285 OF 2019

Sri Kanchi Kamakoti Peetathipathi
Jayendra Saraswathi Sankara
Nursery & Primary School
6/338, Thoppu Street
Pullivalam, Tiruvarur District
rep.by its Hon.Correspondent &
Chairman-School Committee,
Prof.V.Janakiraman

...Petitioner

Vs

1. The Chief Educational Officer,
Office of the Chief Educational Officer,
1st Floor, Collectorate Annexe Building,
Tiruvarur-610 004.

2. The Government of Tamil Nadu
Rep.by its Secretary,
School Education Department,
Fort St. George,
Chennai-600 009

... Respondent

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant Upgradation to Middle School of the petitioner pursuant to the Application Form I submitted to the 1st respondent dated 25.02.2019, further notice of the petitioner's counsel dated 21.05.2019 and also in terms of order of this Hon'ble Court in W.A.No,532 of 2018 dated 12.03.2018 confirming the order in W.P.No.2560 of 2017 dated 06.07.2017.

For petitioner : Mr.V.Karthic, Sr.c
for M/s.S.Haroon AL Rasheed

For Respondents : Mrs.P.Kavitha,GA

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. The grievance of the petitioner is that the petitioner's School is functioning from the year 2000. The Director of Primary Education, Chennai has given recognition to the School upto 31.10.2005 and the same was renewed from time to time. The current recognition is valid upto 31.10.2020. The petitioner's Institute is offering classes from LKG to 5th standard. Due to increase demand and necessity to cater the need of the public, the Institute thought fit to upgrade it upto 8th standard. The representation and the application given for upgradation to the authorities have not been considered in spite of complying all the necessary requirements. Earlier, the petitioner's Institute applied for recognition under the Matriculation Code later subsequent application was given to the District Educational Officer seeking upgradation of the Institute upto Middle School. Since the application dated 25.02.2019 submitted to the 1st respondent is still pending without consideration, the writ petition has been filed.

3. When the matter was admitted and notice ordered, the learned Government Advocate appearing on behalf of the respondents circulated the communication of the 1st respondent dated 27.06.2019 stating that the petitioner has to approach the Directorate of Matriculation through District Educational Officer, Tiruvarur, for upgradation of the Institute as a Matriculation, which was per se irrelevant and not the actual request or in consonance with the application given by the petitioner to the 1st respondent on 25.02.2019. The earlier request of the petitioner for grant of permission to upgrade for Matriculation was also not the subject matter of the writ petition. Therefore, this Court has imposed costs of Rs.25,000/- to the 1st respondent, who has issued the proceedings with an intention to mislead the Court.

4. Be that as it may, now the counter has been filed by the 1st respondent wherein, it is admitted that the petitioner Institute was accorded approval to run Nursery and Primary School under the provisions of Code of Regulations for Approved Nursery and Primary School and the same is renewed upto 30.10.2020. However, it is contended that since the School was granted approval with reference to "Code of Approved Nursery and Primary Schools" and being governed under the said Code, the school has applied for upgradation under the Code whereas, the said Code does not provide for upgradation of the Nursery and Primary School as a Middle School. The petitioner has not

applied for upgradation under the Tamil Nadu Recognised Private Schools Regulation Act, 1973. Hence, the request of the petitioner cannot be complied with.

5. Further, the 1st respondent has stated the procedure and law in respect of according permission for starting Matriculation after extracting the relevant provisions under the Code of Regulation for Approved Nursery and Primary School as well as Tamil Nadu Recognised Private Schools Regulation Act, 1973. The 1st respondent contends that as per the Code of Regulation for Approved Nursery and Primary School, there is no provision in the Code to upgrade the Nursery and Primary Schools into Middle School. Since the petitioner's School was not recognized as per Act and Rules of Tamil Nadu Recognised Private Schools Regulation Act, 1973, the respondent can not apply the Tamil Nadu Recognised Private Schools Regulation Act and Rules, 1973 in respect of the petitioner's School and to grant approval for upgradation upto class 8th.

6. It is also contended by the 1st respondent in his counter affidavit that he has informed the petitioner herein vide letter dated 27.06.2019 to rectify all the deficiencies pointed out by the Inspector of Matriculation Schools for opening of Matriculation School. This Communication what has already referred above, is misleading and irrelevant to the present writ petition and unconnected to the representation given by the petitioner to the 1st respondent vide letter dated 25.02.2019.

7. It is suffice to state that the 1st respondent has predetermined not to entertain the petitioner's application and therefore filed a counter affidavit and relied upon the communication, which is totally irrelevant to the relief sought by the writ petitioner. Since this Court has already pointed out the manner in which he has tried to mislead, cost being imposed. So nothing more is required to say except to point that even after filing of the writ petition and counter, the 1st respondent has not considered the representation of the petitioner dated 25.02.2019.

8. Therefore in the said factual situation, the 1st respondent is hereby directed to consider the representation given by the petitioner herein dated 25.02.2019 call for particulars, if any required and pass appropriate orders within a period of three weeks from today.

9. With the above directions, this Writ Petition is disposed of. No costs.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

rpl

To

1. The Chief Educational Officer,
Office of the Chief Educational Officer,
1st Floor, Collectorate Annexe Building,
Tiruvavarur-610 004.
2. The Secretary,
Government of Tamil Nadu,
School Education Department,
Fort St. George,
Chennai-600 009.

+1cc to M/s.S.Haroon AL Rasheed, Advocate, S.R.No.67023
+1cc to the Government Pleader, S.R.No.68089

W.P.No.17285 of 2019

RR(CO)
CS/24/09/2019