

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2019

CORAM :

THE HON'BLE MRS.VIJAYA K.TAHILRAMANI, CHIEF JUSTICE

AND

The HON'BLE MR.JUSTICE M.DURAI SWAMY

W.P.No.21128 of 2019 and

W.M.P.No.20332 of 2019

Mahatma Gandhi Medical College and
Research Institute,
rep by its Chairman,
Pondy - Cuddalore Main Road,
Pillaiyarkuppam,
Pondicherry - 607 402.

... Petitioner

Vs.

1. Government of Puducherry,
rep by its Chief Secretary,
Puducherry Secretariat, Goubert Avenue,
Puducherry - 605 001.
2. The Government of Puducherry,
rep by its Secretary,
Department of Local Administration,
Puducherry Secretariat, Goubert Avenue,
Puducherry - 605 001.
3. The Department of Town and Country Planning,
rep by its Member Secretary,
Government of Puducherry,
Jawahar Nagar, Boomanipet,
Puducherry.
4. The Puducherry Planning Authority,
rep by its Member Secretary,
Government of Puducherry,
Jawahar Nagar, Boomanipet,
Puducherry.
5. The Bahour Commune Panchayat,
rep by its Commissioner,
Puducherry.

.. Respondents

Petition filed under Article 226 of the Constitution of
India praying for issuance of Writ of mandamus to direct the 4th

respondent to comply with the order dated 03.03.2016 in reference No.375/TCP/Board/JTP(dev.)/2016/508 issued by the 3rd respondent and grant building plan approval to the petitioner for construction of hospital/annex buildings (12 block) as set out in the application dated 11.09.2014 submitted by the petitioner.

For Petitioner : Mr.Abishek Jenasenan

For Respondents: Mr.T.P.Manoharan, Senior Counsel

Asst. by Mr.C.T.Ramesh,
Additional Government Pleader(P) (R1 to R4)

O R D E R

(ORDER OF THE COURT WAS MADE BY M.DURAI SWAMY, J.)

The petitioner has filed the above Writ Petition to issue a Writ of mandamus to direct the 4th respondent to comply with the order dated 03.03.2016 issued by the 3rd respondent and grant building plan approval to the petitioner for construction of hospital/annex buildings (12 block) as set out in the application dated 11.09.2014 submitted by the petitioner.

2.It is the case of the petitioner that they submitted the application for building plan approval on 11.09.2014 and the 3rd respondent, the Department of Town and Country Planning represented by its Member Secretary, by order dated 03.03.2016 directing the 4th respondent viz., the Puducherry Planning Authority to grant building plan approval to the petitioner, was not implemented by the 4th respondent so far. In these circumstances, the petitioner has filed the Writ Petition seeking for a direction to the 4th respondent to comply with the order dated 03.03.2016 of the 3rd respondent.

3.The respondents 1 to 4 filed their counter wherein it has been stated that the Council of Ministers had accepted the request made by the petitioner for transfer of Government lands/Water-Bodies encroached by it. But the Lieutenant Governor rejected the said request and the matter was placed before the Government of India, Ministry of Urban Development for taking a decision either to agree or disagree for such transfer and finally the Ministry of Home Affairs, Government of India would consider and take a final decision either to grant permission for such transfer or refuse the same. The respondents have stated that in these circumstances, the permission was not granted for transfer of the Government lands/Water-Bodies till today.

4.The petitioner contended that the petitioner was not aware of the existence of the water channel/vaikal since no agricultural activity had been carried out in the petitioner's

land or in the surrounding area for more than two decades prior to the petitioner's acquiring the land.

5.The 3rd respondent, while passing the order dated 03.03.2016 directed the 4th respondent to grant building plan approval to the petitioner subject only to the condition that the petitioner should earmark an equivalent extent of land as channel/vaikkal in the petitioner's premises and maintain the same as a Water-Body. However, the order passed by the 3rd respondent has been rejected by the Lieutenant Governor of Puducherry and the matter has been referred to the Central Government for taking a final decision. In these circumstances, since the matter is pending before the Government of India, mandamus cannot be issued to the 4th respondent to comply with the order dated 03.03.2016.

6.In these circumstances, since the application submitted by the petitioner - College is pending from 11.09.2014, the concerned authorities may take a decision as expeditiously as possible.

7.With these observations, the Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

-s/d-

Assistant Registrar (CCC)

True Copy

Sub-Assistant Registrar

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To

1.The Chief Secretary,
Government of Puducherry,
Puducherry Secretariat, Goubert Avenu, Puducherry - 605 001.

2.The Secretary,
Government of Puducherry,
Department of Local Administration,
Puducherry Secretariat, Goubert Avenu, Puducherry - 605 001.

3.The Member Secretary,
Department of Town and Country Planning,
Government of Puducherry,
Jawahar Nagar, Boomanipet, Puducherry.

4.The Member Secretary,
Puducherry Planning Authority,
Government of Puducherry,
Jawahar Nagar, Boomanipet, Puducherry.

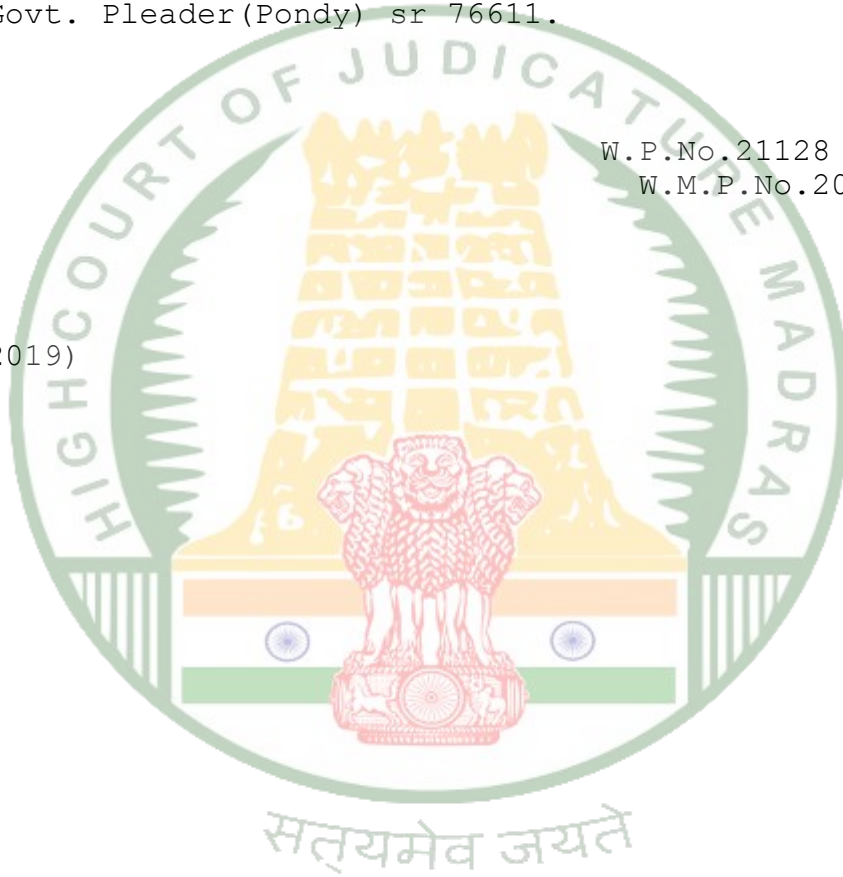
5.The Commissioner,
Bahour Commune Panchayat,
Puducherry.

+2 Ccs to M/s. Abishek Jenasenan, Advocate sr 76405.

+1 CC to Govt. Pleader(Pondy) sr 76611.

W.P.No.21128 of 2019 and
W.M.P.No.20332 of 2019

RSI (CO)
SP(03/10/2019)



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