

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.08.2019

CORAM:

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Writ Petition No.22858 of 2019

and

W.M.P.Nos.22473, 22475 & 22477 of 2019

A.M.Kanniappa Mudaliar and A.M.K.Jambulingam,
Mudaliar Educational Trust,
Rep.by its Chairman
Mr.J.Kartheekeyan,
Jambu Towers, 99 New Avadi Road,
Kilpauk, Chennai-10

...Petitioner

Vs

1.The Registrar,
Anna University,
Chennai-600 025.

2.The Registrar,
council of Architecture,
India Habitat Centre,
Core-6A, 1st Floor,
Lodhi Road, New Delhi-100 003.

3. Directorate of Technical Education,
Guindy, Chennai 600 025.

4.The Block Development Officer,
Chembarambakkam Panchayat,
Poonamallee.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for records in the impugned order passed by the 1st respondent in Lr.No.345/CAI/AU/2019 dated 18.07.2019 quash the same and direct the 1st respondent to grant affiliation to the petitioner college for the academic year 2019-20 for B.Arch., Degree Course without insisting on Building Plan approval by CMDA by accepting the approval granted by the Panchayat and Certificate for Electrical Safety Certificate to be produced from the competent authorities based on the approval

granted by the 2nd respondent Council of Architecture.

For petitioner : Mr.D.Prabhu Mukunth Arunkumar

For Respondents : Mr.M.Vijayakumar, St.c for R1
: Mr.S.Sureshkumar, GA for R3
: Mr.V.Kathirvelu, Spl.GP for R4

O R D E R

Heard the learned counsel for the petitioner and the learned Standing counsel for the 1st respondent, learned Government Advocate for the 3rd respondent and the learned Special Government Pleader for the 4th respondent.

2. The grievance of the petitioner is that in spite of compliance of the requirements contemplated under the Regulations, the University refused to grant affiliation on the ground that the petitioner's college has not furnished CMDA approval and the Electrical Safety Certificate of the building. In this regard, the petitioner institute on receipt of letter from the Registrar of the University has made a representation on 11.07.2019 which is extracted herein under:-

"With reference the letter cited under reference (2), we wish to submit that our Chairman has submitted an undertaking stated that the CMDA approval for the existing building plan and Certificate for Electrical Safety will be obtained and submitted to the University within a period of 6 months.

As per the concurrence given by the Government vide G.O.Ms.No.76 dated 14.06.2018, the educational building in the Non-planing area constructed before 1.1.2011 can apply for regularisation. The Government has agreed to consider the Management Association request to extend the same to Planning area also. Therefore, our Management has submitted undertaking to submit the Building Plan approval copy within 6 months.

Meanwhile, the Government of Tamil Nadu issued a G.O.regarding regularisation under Section 113(C). On 04.02.2019, the Government also issued a G.O.to follow new rules under Tamil Nadu Combined Development and Building Rules 2019.

As we have submitted for regularisation of our buildings during November 2015 to Chennai Metropolitan Development Authority, we have waited until information from CMDA received to submit the application online.

Now the CMDA asked us to submit the application for regularisation of buildings through online and accordingly, we have submitted our application. The payment will be made after the receipt of demand from CMDA.

Therefore, an undertaking stating that the copy of the approved building plan will be submitted herewith for favour of kind consideration.

For Electrical Safety Certificate from the concerned authority, we have applied for getting Electrical Safety Certificate on 09.07.2018 and payment also made for inspection on 09.07.2018(copy enclosed).

As the Electrical Safety Inspector is acting in-charge for our Ambattur Division, he informed that due to work load he could not conduct inspection immediately and asked us to wait for some time. Now inspection is over and the report is to be expected shortly. The copy of the Electrical Safety Certificate will be submitted as and when it is received. "

3. The petitioner institute has sought six months time to furnish the building plan approval from CMDA and also Electricity Safety Certificate. However, the University has rejected the request vide letter dated 18.07.2019 which is impugned before this Court.

4. According to the petitioner, the reason for not considering the request of the petitioner through letter dated 11.07.2019 is that on an earlier occasion, the petitioner gave an undertaking to produce CMDA approval for existing building but had failed to do so. Again, seeks time for further period of six months for complying the same.

5. The representation made by the petitioner is extracted above. The reason given by the respondent herein for rejecting the representation of the petitioner shows that he has not properly applied his mind while considering the representation dated 11.07.2019.

6. The learned counsel appearing for the petitioner submits that earlier the petitioner institute has sought for extension under Section 113 of the Town and Country Planning Act. However, in the light of the Division Bench judgment rendered in Tamil Nadu UnAided Polytechnic Management Association Vs. State of Tamil Nadu, they are contemplating to make representation to the CMDA for granting approval in line with the planing approval already granted by the Panchayat. As far as the Electrical Safety is concerned, it is stated by the learned counsel that the inspection by the Electricity

department already conducted and report is awaited. The learned counsel submits that within two months the institution will be able to get the approval of CMDA as well as the Electricity safety certificate.

7. In such circumstances, the petitioner herein is directed to give an undertaking affidavit to the University seeking time for furnishing the building plan approval and Electrical Safety clearance within two months. Considering the affidavit and related documents produced by the petitioner's institute. The University shall consider the representation and pass orders within 3 days, from the date of its receipt of a representation, regarding granting of provisional affiliation on condition it will be revoked if the institute fails to produce the Building plan approved by CMDA and Electrical Safety Certificate by TANGEDCO, within 2 months period.

8. In the result, this Writ Petition is disposed of. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

rpl

To

1.The Registrar,
Anna University, Chennai-600 025.

2.The Registrar,
council of Architecture,
India Habitat Centre,
Core-6A, 1st Floor,
Lodhi Road, New Delhi-100 003.

3. The Directorate of Technical Education,
Guindy, Chennai 600 025.

4.The Block Development Officer,
Chembarambakkam Panchayat,
Poonamallee.

Copy TO

The Manager Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai.

+1cc to Mr.D.Prabhu Mukunth Arun Kumar, Advocate, S.R.No. 68756
+1cc to Mr.M.Vijaya Kumar, Advocate, S.R.No. 68999

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NR(CO)
GN(13/08/2019)



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