

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 20.09.2019

PRONOUNCED ON : 25.09.2019

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.27695 of 2019

M/s.ABC College of Arts
and Science (Women),
Represented by its Correspondent
J.Francies Xavier,
Christian Minority Educational Trust,
Venkatakulam,
Alangudi (TK),
Pudukkottai District - 622 303.

.... Petitioner

Vs

1.The Director,
Directorate of College Education,
Chennai - 6.

2.The Director,
Office of the Directorate of Town &
Country Planning Department,
807, Anna Salai,
Chennai - 600 002.

.... Respondents

Prayer :- This Writ Petition is filed under Article 226 of the Constitution of India for a writ of Mandamus directing the 1st respondent to process the petitioner application dated 27.10.2016 for grant of permission to start a Arts and Science college under name abd style of ABC College of Arts and Science (Women) without insisting upon building plan approval from Directorate of Town and Country Planning (in short DTCP) and based on the building plan approval given by the local authority as the building was constructed prior to 2011 in view of settled proposition of law within a time frame fixed by this Court.

For Petitioner :Mr.E.Vijay Anand

For 1st Respondent :Mr.S.Sureshkumar, Government Advocate

For 2nd Respondent :Mr.N.Inbanathan,
Additional Government Pleader

ORDER

The petitioner Trust with intention to start Arts and Science college exclusively for women has applied to the first respondent seeking permission vide application dated 27.10.2016. The first respondent, on receipt of application, has found certain deficiencies and therefore, returned the application to the petitioner through his communication dated 13.12.2016 pointing out those deficiencies. One of the deficiency is, want of building plan approval from the Director of Town and Country Planning (DTCP).

2. According to the petitioner, the building was constructed prior to the year 2008 and the building plan approval dated 25.04.2008 was obtained from the village panchayat. Therefore, the provision of Section 47-A of the Tamil Nadu Town and Country Planning Act which mandates approval from DTCP is not applicable to the building of the petitioner.

3. It is the case of the petitioner that, DTCP approval for a building is required for those buildings which have been constructed subsequent to the amendment which came into effect from the year 2012. Further, it is the case of the petitioner that, though the petitioner's building does not require DTCP approval but, as an abundant caution, they have applied to the second respondent and the process of getting clearance from the DTCP is under consideration. The second respondent has directed to get regularization regarding the set back, so, the petitioner has applied for regularization and the same is pending.

4. Citing catena of judgments, the petitioner submits that the petitioner is entitled to get permission to start Arts and Science college pending approval from DTCP since, the building plan has already been approved by the local authority. Therefore, the petitioner application dated 27.10.2016, for grant of permission to start Arts and Science College has to be processed without insisting upon building plan approval from DTCP.

5.This Court, in similar circumstances, when an educational institute sought for intervention by way of mandamus to direct the authorities to consider their application for permission to start the Arts and Science College without production of DTCP approval for the building, in W.P.No.20890 of 2016 dated 31.08.2016, allowed the writ petition taking note of the fact that the building of that Institute was constructed before insertion of Section 47-A in the Tamil Nadu Town and Country Planning Act, came into force.

6.From the averment made in the writ petition, it appears that the petitioner has constructed the building with the approval of the Panchayt Board, before insertion of Section 47-A in the Tamil Nadu Town and Country Planning Act in the year 2012. It is also found from the pleadings that on 19.07.2018, the petitioner institute has sought for DTCP concurrence and the same is pending.

7.Therefore, it is sufficient to direct the first respondent to consider the application submitted by the petitioner on 27.10.2016 and the subsequent compliance of the defects pointed out by the first respondent vide letter dated 13.12.2016. While considering the same, the first respondent shall take into consideration the online application made by the petitioner on 19.07.2018 for the concurrence from DTCP and process the application based on the approval granted by the panchayat and subject to approval of DTCP pending consideration. Accordingly, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(insp cell)

//True Copy//

Sub Assistant Registrar

jbm
To

1.The Director,
Directorate of College Education,
Chennai - 6.

2.The Director,
Office of the Directorate of Town &
Country Planning Department,
807, Anna Salai,
Chennai - 600 002.

+1cc to Mr.E.Vijay , Advocate SR.No. 82215
+1 cc to Government Pleader Sr.No. 82811

W.P.No.27695 of 2019

A.SK(27/09/2019)



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