

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.33526 of 2019

and

W.M.P.Nos.33988 & 33990 of 2019

M/s.Indian Modern Matriculation School,
Rep., by its Correspondent,
No.2/483, Bangalore Main Road,
Kasinaickenpatti (Post), Tirupattur (Taluk),
Vellore District-635 901. .. Petitioner

-vs-

- 1.The Director of Matriculation Schools,
Directorate of Matriculation Schools,
DPI Campus, College Road,
Chennai-600 006.
- 2.Joint Director of School Education
(Higher Secondary),
DPI Campus, College Road,
Chennai-600 006.
- 3.Chief Educational Officer,
Chief Educational Office,
Collectorate Building,
3rd Floor, "B" Block,
Sathuvachari,
Vellore-632 009. .. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorarified Mandamus to call
for the records in order passed by the 1st respondent in
Na.Ka.No.3466/A2/2019 dated 01.11.2019 and quash the same and
direct the 2nd respondent to consider the petitioner's proposal
for upgradation of Matric Higher Secondary School without
insisting for DTCP approval for building within the time frame
to be fixed by this Court.

For Petitioner : Ms.A.Sumathy

For RR1 to 3 : Ms.P.Kavitha,
Government Advocate (Edn.)

ORDER

Heard Ms.A.Sumathy, learned counsel for the petitioner and Ms.P.Kavitha, learned Government Advocate accepting notice on behalf of the respondents.

2.With consent, this writ petition is taken up for final disposal at the admission stage itself.

3.This writ petition has been filed by a Matriculation School and they are aggrieved by the proceedings issued by the 1st respondent dated 01.11.2019, by which, the request made by the petitioner for upgradation of the School to have 11th Standard and 12th Standard was rejected primarily on two grounds. Firstly, the petitioner has not produced the copy of the concurrence given by the Directorate of Town and Country Planning to the concerned panchayat, which approved the building plan submitted by the petitioner-School. The second ground is that in the construction put up by the petitioner, there are only 18 rooms as against the minimum requirement of 22 rooms, which includes 15 class rooms and 7 other rooms for laboratories, Principal room, Teachers' room, Library, etc.

4.The learned counsel for the petitioner submitted that as per the approved plan, 22 rooms are available and he produced a copy of the original plan. However, on the inspection conducted by the Chief Educational Officer and the report having been submitted by the Director of Matriculation Schools would show that there is a deficit.

5.This Court cannot go into the disputed question of fact in a writ petition. If according to the norms, which have been framed in pursuant to the Right of Children to Free and Compulsory Education Act, 2009, those norms have to be strictly adhered to by the institution and this Court cannot issue any direction relaxing the norms in favour of a particular institution.

6.With regard to the concurrence, which was required to be obtained from the Directorate of Town and Country Planning, those concurrence will be issued only to the Panchayat, which granted the building plan approval. Therefore, if a request is made by the petitioner to the panchayat, the panchayat is bound to get all the concurrence given by the Directorate of Town and Country Planning. Therefore, in my considered opinion, the petitioner has to rectify the defects pointed out. The problem faced by the petitioner is that anticipating approval, they have admitted nine students in the 11th Standard. This is improper because, without approval for upgradation, no students have been admitted. Therefore, the petitioner has to issue transfer

certificates to those students and the Department has to facilitate and accommodate all those students in nearby schools.

7.The learned counsel appearing for the petitioner submitted that the 1st respondent has no jurisdiction to pass the impugned proceedings and in this regard she referred to G.O.(Ms) No.145, School Education (GL1(2)) Department, dated 17.07.2018. However, this Court finds that the said Government Order will have no application to Matriculation Schools, since as per the Code of Regulations for Matriculation Schools, the competent authority is the 1st respondent. Therefore, this contention raised by the petitioner does not merit acceptance.

8.In the light of the above, this writ petition is disposed of by directing the petitioner to approach the President, Kasinaickenpatty Panchayat, Tirupattur (Taluk), Vellore, and request for furnishing a copy of the concurrence given by the Directorate of Town and Country Planning. If such a request is made by the petitioner, the Panchayat is directed to give a copy of the concurrence within a period of one week from the date on which the request is made. With regard to infrastructure requirement, the petitioner is directed to construct additional rooms and cure the deficit and submit a fresh application for upgradation for the academic year 2020-2021. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True copy//

Sub Assistant Registrar

abr

To

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

2.The Joint Director of School Education
(Higher Secondary),
DPI Campus, College Road,
Chennai-600 006.

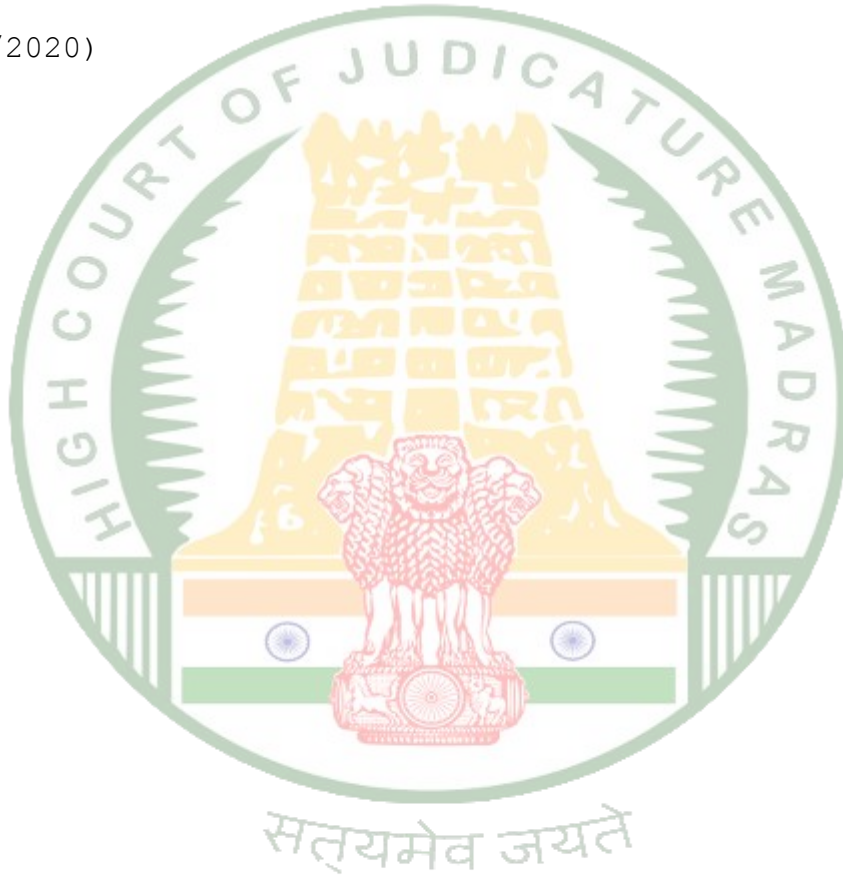
3.The Chief Educational Officer,
The Chief Educational Office,
Collectorate Building,
3rd Floor, "B" Block,
Sathuvachari, Vellore-632 009.

+1cc to Ms.A.Sumathy, Advocate SR.No.101017

+1cc to Government Pleader SR.No.101640

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BS (CO)
GMY (21/01/2020)



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