

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 08.01.2019

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR. JUSTICE P.RAJAMANICKAM

WP.No.34808/2018

S.Balu

Petitioner

Versus

- 1 The District Collector
Tiruvavarur.
 - 2 The State of Tamil Nadu
rep.by its Secretary to Government
School Education Department
Fort St George, Chennai 600 009.
 - 3 The Commissioner
Town and Country Planning
No.807, Anna Salai, Chennai 600 002.
 - 4 The Central Board of Secondary Education,
rep.by its Regional Director
New No.3, [Old No.1530A], J Block
16th Main Road, Anna Nagar West
Chennai 600 040.
 - 5 The SVS CBSE School
rep.by its Correspondent
Door No.3/499, Tiruvarur Road
Tiruthuraipoondi, Tiruvarur District.
- ..Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, praying for a writ of mandamus directing the respondents 1 to 4 to take action against the 5th respondent unrecognised/unaffiliated school and its building as per law and close the 5th respondent School in view of the letter No.CBSE/RO [M]/RTI/2018/JUNE/2017 dated 28.06.2018 sent by the 4th respondent.

For Petitioner : Mr.A.Ilango
For RR1 & 3 : Mr.A.Ansar, GA
For R2 : Mr.C.Munusamy, Spl.GP [Edn]

ORDER

[Order of the Court was made by M.SATHYANARAYANAN, J.,]

By consent, the writ appeal is taken up for final disposal and is disposed of by this order. Mr.A.Ansar, learned Government Advocate accepts notice on behalf of the respondents 1 and 3 and Mr.C.Munusamy, learned Special Government Pleader [Education] accepts notice on behalf of the 2nd respondent.

2 The writ petition is styled as a Public Interest Litigation and according to the petitioner, he is a resident of Madappuram, Deevambalpuram, Tiruthuraipoondi Taluk, Tiruvarur District. The lands in S.No.247/1A1, 3A, 3B and 8 which is situate on the Eastern side of Tiruthuraipoondi - Tiruvarur Road, are classified as 'Nanja' lands and paddy was grown and the said lands contain clay soil and during rainy season, water used to stagnate there. It is further averred by the petitioner that during the year 2015-16, one Lourdesamy, S/o.Susaikannu, who was the owner of the said lands also got flood relief from the Government of Tamil Nadu and he also raised crop loan from Singalandhi Primary Agricultural Cooperative Credit Society. It is the specific case of the petitioner that an unauthorised construction in the form of 5th respondent - School has come in place and the said School does not have permission or authorisation in accordance with the relevant rules and regulations and there is a safety hazard for the children who are studying in the School and though the said fact has been brought to the knowledge of the concerned authorities in the form of repeated representations, no action has been taken.

3 The learned counsel for the petitioner would submit that the Central Board of Secondary Education authorities have also been addressed in that regard as it is a CBSE School and vide communication dated 28.06.2018, the CBSE has also directed the petitioner to move the concerned State Government Authorities and though the fact of unauthorised existence of 5th respondent/School has been brought to the knowledge of the authorities concerned, there is an absolute inaction and left with no other option only, the petitioner was constrained to approach this Court by filing the present writ petition.

4 Mr.C.Munusamy, learned Special Government Pleader [Education] appearing on behalf of the respondents 1 to 4 would

submit that on an earlier occasion, one G.Sundarapandiyan, has filed WP.No.5501/2018, praying for issuance of a writ of mandamus, directing the respondents 1 to 4 in the writ petition to take action against the 5th respondent herein and to close down the same and the Hon'ble First Bench of this Court, vide order dated 15.03.2018, had disposed of the said writ petition and it is relevant to extract paragraph No.7 of the said order:-

'7 A writ petition for closure of a school cannot, in our view, be in public interest. We only direct that the State Authorities should ensure that, until recognition is granted, all guardians admitting their children to the school are informed that the school is not yet recognised. The school shall install a board at the entrance indicating that the school is unrecognised. In the event any application is pending with the Central Board of Secondary Education for recognition, the board at the entrance may indicate that the application of the school for recognition is pending with the Central Board of Secondary Education.'

5 It is the further submission of the learned Special Government Pleader [Edn.] that the Director of School Education, Chennai-6, vide proceedings dated 27.03.2018 in Na.Ka.No.63137/G1/E4/2017 has directed the Chief Educational Officer, Tiruvarur, to initiate appropriate action in terms of the order passed in WP.No.5501/2018 and the Chief Educational Officer, Tiruvarur, has also sent a communication dated 25.06.2018 in O.Mu.No.2763/A2/2018 to the 5th respondent, calling upon him to rectify the defects and submit a report.

6 The Court has considered the rival submissions and also perused the materials placed before it.

7 It is to be pointed out at this juncture that though the petitioner is a functionary belonging to the Ruling Party, the said fact has not been disclosed in the affidavit filed in support of the writ petition. Further, in the light of the order dated 16.03.2018 made in WP.No.5501/2018, no further orders are necessary and it also appears that the Chief Educational Officer, Tiruvarur, has also taken into consideration the relevant aspects and sent a communication dated 13.11.2018 in Na.Ka.No.3916/A2/2018 to the Collector of Tiruvarur District, informing them that a show cause notice has been issued to the 5th respondent as to their function without recognition and the 5th respondent has also responded by a letter dated 08.11.2018 stating that they have applied for necessary permission and a board has also been put up stating that the said school is an unrecognised school.

8 In the light of the reasons assigned above and the said development, this Court is of the considered view that no further orders are necessary. However, the Chief Educational Officer, Tiruvarur, is directed to file a Status Report with supporting documents as to the further developments that took place after his communication dated 13.11.2018 addressed to the Collector of Tiruvarur District.

9 The writ petition stands disposed of accordingly. No costs.

10 Call on 05.02.2019 for filing Status Report of the Chief Educational Officer, Tiruvarur, with supporting documents.

Sd/-
Deputy Registrar

//True copy//

Sub Assistant Registrar

AP
To

- 1 The District Collector, Tiruvarur.
- 2 The State of Tamil Nadu
rep.by its Secretary to Government
School Education Department
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16th Main Road, Anna Nagar West
Chennai 600 040.
- 5 The Chief Educational Officer, Tiruvarur.

Copy To : The Section Officer, Writ Section,
High Court, Madras-104.

+1cc to Government Pleader SR.No.2974, 2298

WP.No.34808/2018

GMV(01/02/2019)