



W.P.(MD) 16963/2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P. (MD) No.16963 of 2019

and

W.M.P. (MD) No.13533 of 2019

R.Kanchana

... Petitioner

-Vs-

1.The District Educational Officer,
District Educational Office,
Trichy.

2.The Block Educational Officer,
District Education Office,
Trichy Town, Trichy District.

... Respondents

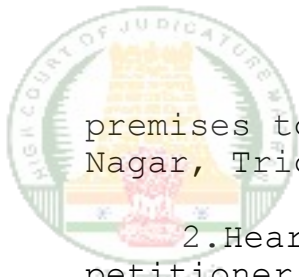
Prayer: Writ Petition - filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus, calling for the records relating to the impugned order in proceedings in Na.Ka.No.2970/A4/2019 dated 30.05.2019 on the file of the 1st respondent and quash the same and consequently direct the 1st respondent to accept the petitioner's approval application dated 03.06.2019 without insisting registered rent agreement for the premises to the Tender Feet Pre school at No.6,1st Cross West, Thillai Nagar, Trichy¹⁸ and further grant 4 months time for production of registered rent agreement for the premises to of Tender Feet Preschool at No.6, 1st Cross West, Thillai Nagar, Trichy 18.

For Petitioner : Mr.B.Prasanna Vinoth

For Respondents : Mr.M.Karuppasamy, G.A.

ORDER

The prayer in this writ petition is for a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order in proceedings in Na.Ka.No.2970/A4/2019 dated 30.05.2019 on the file of the 1st respondent and quash the same and consequently direct the 1st respondent to accept the petitioner's approval application dated 03.06.2019 without insisting registered rental agreement for the premises to the Tender Feet Pre school at No.6,1st Cross West, Thillai Nagar, Trichy¹⁸ and further grant 4 months time for production of registered rent agreement for the



premises to of Tender Feet Preschool at No.6, 1st Cross West, Thillai Nagar, Trichy 18.

2.Heard Mr.B.Prasanna Vinoth, learned counsel appearing for the petitioner and Mr.M.Karuppasamy, learned Government Advocate appearing for the respondents.

3.With the consent of both sides, this writ petition is disposed of at the admission stage itself.

4.The petitioner seems to have started and run a nursery/pre school in the name and style of Tender Feet Pre School at No.6, 1st Cross West, Thillai Nagar, Trichy 18. Admittedly, the said school had been running by the petitioner without the approval of the competent authority, though in this regard, it was claimed by the petitioner that application had been made long back. Initially, the school was started and running by the petitioner in her own premises and subsequently, the school has been shifted to the present premises, which is a rental premises. From 2018 onwards, it seems that, there have been communications between the petitioner and the respondents in order to rectify certain deficiencies pointed out by the authority for consideration of grant of approval to the petitioner's school. However, ultimately, by impugned order dated 30.05.2019, the 1st respondent has directed the petitioner to close down the school by 31.05.2019. Challenging the said order, the present writ petition has been filed.

5.The learned counsel appearing for the petitioner would submit that, all the defects pointed out by the respondents have already been complied with and only with regard to the production of a registered rental agreement in respect of the building, where the school is now located, since they insisted the document to be filed and in this regard, even though, an attempt has been made by the petitioner to get a registered rental agreement, since the owner of the premises is in foreign country and through the Indian Embassy of that country only, such documents can be routed through, it take some reasonable time. However, without giving any reasonable time to rectify the said mistake and submit the registered document, since the impugned order has been passed by the 1st respondent on 30.05.2019, the same is arbitrary and the same has to be interfered with.

6.The learned Government Advocate appearing for the respondents would submit that, admittedly, the school had not been running with the approval of the authorities. Therefore, in order to have approval to the school, on the basis of the application given by the petitioner, after having processed the same, several communications have been issued on behalf of the respondents right from May 2018 till April 2019 and so many defects have been pointed out, most of them though had been fulfilled as claimed by the petitioner, the



main defect i.e., since the premises, where the school is located, is a rental premises, the registered rental agreement since has not been produced or submitted by the petitioner, on that ground, the authority decided to reject the application of the petitioner and accordingly, the impugned order has been passed, directing the school to close down the school by 31.05.2019 and therefore, that order is strictly in accordance with the regulation to that effect and therefore, it required no interference from this Court.

7.I have considered the said submissions made by the learned counsel appearing for the parties.

8.The nursery schools including pre schools, as that of the petitioner, previously may not have been governed by Regulation. But, subsequently, in the year 1991, the Government issued G.O.Ms.No.484, Education dated 24.04.1991 as amended by G.O.Ms.No.117, School Education Department dated 07.09.2004, under which, Code of Regulations for approved Nursery and Primary Schools of Tamil Nadu had been issued. Under the said Code, un-recognized nursery school shall not be permitted and approval shall be given by the competent authority i.e., Director or officer authorized by him to each and every nursery school to run. In this regard, whatever conditions imposed by the authorities to be fulfilled by the school management for getting approval from the competent authority for a nursery school or pre-school, has to be fulfilled.

9.Herein the case on hand, most of the deficiencies pointed out by the respondents though claimed to have been fulfilled by the petitioner, still some deficiencies may be there and in this regard, the main deficiency, according to the respondents, is that, the petitioner had not produced the registered rental agreement in respect of the premises, where the school is located.

10. In this regard, it is the stand of the petitioner through the learned counsel appearing for the petitioner that, definitely that deficiency also would be complied with by the petitioner and for that purpose only, they seek some reasonable time of 2 or 3 months, because the owner of the premises is not in India.

11.Having regard to the said issue, since the school admittedly was running without the approval of the authorities, in this regard so many communications have been exchanged between the parties, since the academic year 2019-20 starts from 01.06.2019, the respondents passed the impugned order on 30.05.2019, directing the petitioner to close the school. The said impugned order, directing the petitioner to close the school since has been complied with by the petitioner and the school, as of now, according to the instructions of the learned Government Advocate appearing for the respondents, is not functioning, that would not impact the school management, which is entitled to resubmit the application once



again, if the deficiency as pointed out by the respondents is complied with.

12. In that view of the matter, it is open to the petitioner to resubmit the application after having complied with all deficiencies including the pointed deficiency i.e. production of registered rental agreement of the premises of the school and if any such application is filed before the respondents, the same shall be considered by the respondents in accordance with law.

13. In the result, this writ petition is disposed of, with the following observation:

"The impugned order cannot be interfered with as this Court finds no infirmity in the same. At the same time, it is open to the petitioner to apply afresh or resubmit the application already rejected, to the respondents with proof regarding the compliance or rectification of all the deficiencies pointed out including the deficiency of filing the registered rental agreement of the premises of the school and once such application is filed or resubmitted by the petitioner, the respondents, especially, the 1st respondent shall take into consideration those rectifications and accordingly, process that application and in this regard, if further clarification or compliance is required, notice can be given to the petitioner and after giving opportunity of being heard to the petitioner, the application shall be decided by the 1st respondent, within a period of two months thereafter and accordingly, final order can be passed. Once final order is passed and by which, if approval is given to the petitioner school, there can be no further impediment for the petitioner school to restart the school from the date of such approval.

No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1.The District Educational Officer,
District Educational Office,
Trichy.

2.The Block Educational Officer,
District Education Office,
Trichy Town, Trichy District.

+1 CC to SPL GP SR-79224.

+1 CC to Mr.B.PRASANNA VINOTH, Advocate SR-79345.

Order made in
W.P. (MD) No.16963 of 2019
and
W.M.P. (MD) No.13533 of 2019
Dated:
31.07.2019

CS (13.09.2019) 5P 5C