



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **27.01.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

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W.P (MD)No.26539 of 2019

and

W.M.P. (MD) .No.22916 of 2019

Somasundaram Chettiar Primary School

Okkur 630 557

Sivagangai Taluk

Sivagangai District

Rep by its Secretary

SM.Meenakshi

.. Petitioner

Vs.

The Tahsildar

Sivagangai Taluk

Sivagangai District.

.. Respondent

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondent herein to issue the Building License to the petitioner School under the Tamil Nadu Public Buildings (Licensing) Act, 1965 for the period from 01.06.2019 to 31.05.2022 based on the petitioner School's Application dated 10.04.2019.

For Petitioner

: Mr.Muthugeethaiyan

for Mr.D.Srinivasaragavan

For Respondent

: Mrs.J.Padmavathi Devi

Special Government Pleader

ORDER

The petitioner's School is a non-minority Private Aided School having a recognition from 1952. The said School has got permanent recognition for the primary School in the year 1952.

2.In this writ petition, the petitioner is seeking a writ of Mandamus directing the respondent/Tahsildar, Sivagangai to issue the building license to the petitioner School under the Tamil Nadu Public Buildings (Licensing) Act, 1965 for the period from 01.06.2019 to 31.05.2022, based on the petitioner School's Application, dated 10.04.2019.



3.As the petitioner School is bound to obtain license and certificates from various authorities once in three years, the building license is renewed periodically. For the purpose of renewing the license, the School authorities had applied along with structural Stability Certificate from the engineers of Public Works Department, Sanitary Certificate from the Local Health Authority and No objection Certificate from the Station Officer, Fire and Rescue Services Department. Despite the applications being made as early as on 10.04.2019, there is no response from the respondent. While so, a civil suit in O.S.No.62 of 2006 has been filed by the petitioner School against the respondent before the Sub-ordinate Court, Sivagangai, with regard to the land, which had ended in favour of the petitioner. As of now, there is no Second Appeal filed by the Government against the order passed by the Sub-ordinate Court, Sivagangai.

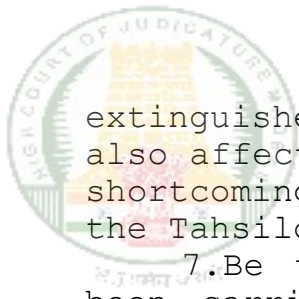
4.From the records, it is seen that during the year 2008-09, an order was passed refusing to grant building license and therefore, the petitioner has challenged the same by filing a writ petition in W.P.(MD).No.5975 of 2009 before this Court. After considering all the relevant materials, this Court had directed the respondent therein to consider the application of the petitioner to issue Stability Certificate and pass orders in accordance with law. Thereafter, the petitioner School had filed many writ petitions in W.P.(MD).Nos.13039 and 13040 of 2010, W.P.(MD).No.9553 of 2014, W.P.(MD).Nos.13627 and 13628 of 2017, in which, this Court had come to the rescue of the petitioner for issuing Stability Certificate. Similarly, for the subsequent years also, only by virtue of the order of this Court, the petitioner School has been running.

5.The learned Special Government Pleader appearing for the respondent has filed a counter affidavit, in which, it has been stated that;

- (i)the petitioner School did not have fire extinguisher;
- (ii)Bathroom and Toilet facilities are inadequate;
- (iii)The roof and terrace of the building premises has seepage rain water; and
- (iv)There is no compound wall.

The counter affidavit is said to have been filed based on the Inspection Report and notice, dated 11.07.2010.

6.Upon summons, the respondent/Tahsildar, Sivagangai, viz., Selvi.Mayilavathi, is present before this Court and submitted that an inspection was carried out in the petitioner School on 07.11.2019. But, no such inspection report has been produced before this Court. It is also not stated that whether notice was served on the School authorities before the inspection was carried out. Notice in ந.க.அ.5-917-2019 நாள்; .01.2020 has been sent by the respondent and a copy of the same has been produced before this Court. The said notice stated that the petitioner school did not have compound wall
<https://hccservices.gov.in/hccservices/> toilet facility and besides, there is only one fire



extinguisher for the whole building. The roof of the school building also affected by seepage water. Therefore, on rectification of these shortcomings by the school, the building license shall be issued by the Tahsildar.

7. Be that as it may, though the inspection was said to have been carried on 07.11.2019 and the notice has been sent to the school based on the inspection on 11.11.2019, there is absolutely no proof to show that it was communicated to the petitioner school. In the counter affidavit it is stated that the inspection itself was conducted only on 11.11.2019 whereas in the letter that was received which has pointed out the shortcomings in the school building, is also dated 11.11.2019. The School is ready for functioning and it is awaiting for the building license to be granted and is ready for rectifying any defects to comply with the norms of the Private School Building. It is understandable as to why the school has approached this Court for more than 10 years and as to why grant of building license periodically was not issued by the authorities. The Tahsildar, who said to be the authority to grant building license, has not exercised its authority or power under the Rule in the proper manner. It is highly regrettable that for grant of license a school is made to rush to this Court for every three years.

8. It is not out of place to mention that the School authorities are also expected to comply with the norms required for running the primary school by maintaining the toilet, structural stability of the building and fire safety equipment in order. The primary concern of this Court is that the petitioner school does not have a compound wall.

9. The learned counsel appearing for the petitioner submitted that a litigation pending between the petitioner and the respondent was a reason for not raising the compound wall. It is stated that every attempt made by the school authorities to construct the compound wall, was stalled by the respondent. As the respondent himself has pointed out that lack of compound wall in the school is one of the reasons for not sanctioning the building license, the respondent cannot have any objection, if the petitioner is constructing the compound wall. As small children are studying in the school, it is necessary to construct the compound wall around the school building.

10. Accordingly, the petitioner is directed to put up the compound wall in the school building within a period of one month by obtaining appropriate license, permit etc., from the authorities concerned. The respondent also should not raise any objection for raising compound wall. The petitioner is further directed to rectify the shortcomings as pointed out by the authorities with immediate effect and intimate the same to the respondent. From the date of intimation, the respondent has to visit the petitioner school in two weeks and issue building license as required and the license has to be issued within a period of one week from the date of inspection.



11. With the above direction, this Writ Petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS-III)

/ /2020

Sub Assistant Registrar(CS)

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To

The Tahsildar
Sivagangai Taluk
Sivagangai District.

W.P (MD) No.26539 of 2019

and

W.M.P. (MD) .No.22916 of 2019

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