



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:13.7.2021

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No. 4851 of 2021
and W.M.P.No.5466 of 2021

Sri Kanchi Kamakoti Peetathipathi
Jayendra Saraswathy Sankara Nursery
and Primary School Rep. by its Hon. Correspondent
6/338 Thoppu street, Pulivalam,
Thiruvarur District 610 109

...Petitioner

Vs.

- 1 The Chief Educational officer,
Office of the Chief Educationl Officer,
1st Floor, Collectorate, Annexe Building
Tiruvarur 610 004.
- 2 The Chief Educational Officer,
Panagal Building, Thanjavur HO.,
Thanjavur 613 001.
- 3 The Director of School Education,
College Road, Nungambakkam,
Chennai- 600 034.
- 4 The Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 034.
- 5 The Joint Director of Elementary Education,
College Road, Nungambakkam,
Chennai 600 034.

...Respondents

Prayer: Writ Petition is filed under Article 226 of Constitution of India for writ of Certiorarified mandamus, calling for the records of the 5th Respondent dated 19/12/2020 in proceedings Na.Ka.No.014582 / F1 /2019 and quash the order in so far as imposing condition Nos.1, 4, 5, 7, 8, 12, 13, 14, 15 and 16 for upgradation as middle school and direct the 5th respondent to grant unconditional upgradation to the petitioner school by deleting the conditions referred herein above.



For Petitioner

: Mr. V.Karthik, Sr. Counsel for
Mr.S.Haroon Al Rasheed

For Respondents

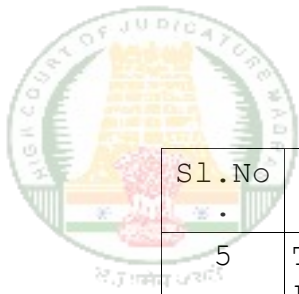
: Mr.M.R.Gokulkrishnan, G.A.1 to 5

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O R D E R

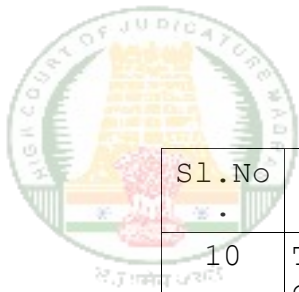
The learned Senior counsel appearing for the petitioner Management would submit that the respondent department has pointed out certain defects for grant of approval for upgradation of school from 6th Standard to 8th Standard. The Chief Educational Officer visited the school premises on 25.6.2021 and based on the inspection, status report has been submitted before this Court which reads as follows:

Sl.No	Conditions	Status
1	Only one stair case is available. Another stair case should be constructed. The width of the stair case should be	Not complied
2	To protect the welfare of the student, removal certificate of the coconut trees as per the report of the Chief Educational Officer, Thanjavur.	Complied
3	original lease deed should be produced along with consent from all legal heirs.	Not produced
4	The ground floor is separated into four classrooms and the area of the classroom is below 400 sq.ft.	The area of the Classroom is below 400 sq.ft. - Not Complied.



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Sl.No	Conditions	Status
5	The lease deed is not registered. The area of the school land is not properly mentioned and hence, the actual areas of the land is not known. The correct land document should be produced.	The lease deed is not registered. A Residential house is in the School campus. The original land document was not produced for verification of land area. As per the lease deed, the land details of the survey numbers 160-2, 160-4 are not mentioned. More over, as per schedule of the lease deed only in survey numbers 161/3 is mentioned that too excluding the portion where there is a residential building. Hence, the claim of the property cannot be proved beyond doubt.
6	Qualified teachers should alone be appointed.	Qualified teachers are appointed.
7	Trust deed should be produced. The name change document of Kancheepuram District, Sankara Vidyalaya Trust, Pulivalam into Sankara Vidyalaya should be produced.	Complied.
8	If the land is in the name of the school, the document should be produced. Otherwise, 30 years of registered lease deed mentioning the land is used for the school purpose should be produced.	Lease deed not registered for 30 years. Lease deed not produced.
9	The Place of erection of pipeline is not safety of the student. The work should be completed adhering the safety measures and a photo should be produced in this.	Complied.



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Sl.No	Conditions	Status
10	The library is functioning outside the school campus. The library should be functioned in the school campus itself.	Complied.
11	A residential house is in the first floor of the school building. The certificate may be given by the Secretary of the School that there is no residential house in the school.	The residential house is in the school campus - Not Complied.
12	Safety wall will be constructed in the first and second floor for the safety of the student.	Not Complied.
13 & 14	Stability Certificate was issued by the approved Engineer for the years 2013, 2014 in Nos.6/338. The building was constructed after 01.01.2011. Hence, DTCP approval should be obtained as per the G.O.(Ms)No.76, Housing and Urban Development Department, dated 14.03.2018. Whereas the building was constructed in the year 2013, 2014 without prior approval from the District Town Panchayat and Country Planning.	The building was constructed after 01.01.2011. Hence DTCP approval should be obtained and the application details for obtaining DTCP approval was not submitted.
15	Minimum land area should be available as per the G.O.(Ms) No.49, School Education (D1) Department, dated 10.03.2007.	Only 0.73:5 acres of land is available whereas minimum requirement is 3 acres.
16	The above said conditions should be fulfilled within three months. The order was issued in pursuance to the orders of the Hon'ble Court and Hence, no	Not fully Complied.



(i) Insofar as the defects pointed out by the Chief Educational Officer, out of 16 conditions/defects pointed out by the respondent department, Sl.No.2, 6, 7, 9 and 10 are complied with by the petitioner school.

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(ii) Insofar as Sl.No.1 is concerned, the defect pointed out by the respondent relates to the old building whereas application seeking approval for upgradation of the school is in the additional building constructed by the school management. Therefore, the said condition is not required for upgradation of the school.

(iii) Insofar as Sl.No.3 is concerned, according to the learned Senior counsel for the petitioner school agreed to produce original copy of the lease deed along with consent from all the legal heirs before the Chief Educational Officer for verification.

(iv) Insofar as Sl.No.4 is concerned, learned Senior counsel for the petitioner would submit that the petitioner school will make necessary arrangement for providing sufficient area for the classroom not below 400 sq.ft. or make admission of students as per G.O.Ms.No.175 issued by School Education Department, dated 20.7.2017.

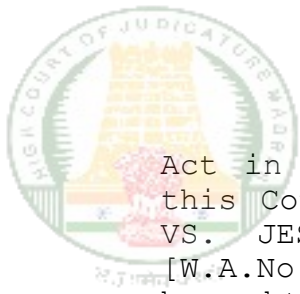
(v) Insofar as Sl.No.5 is concerned, the petitioner is agreed to comply with the condition and produce registered lease deed before the respondent.

(vi) Insofar as Sl.No.8 is concerned, the petitioner school is agreed to produce lease deed before the authorities concerned for granting approval for upgradation of petitioner's elementary school to Middle school.

(vii) Insofar as Sl.No.11 is concerned, according to the learned counsel appearing for the petitioner, said house is used as Guest house for the School Management.

(viii) Insofar as Sl.No.12 is concerned, the petitioner school has agreed to comply with the said condition by constructing safety wall in first and second floor as required by the respondent department for the safety of the students.

(ix) Insofar as Sl.No.13 & 14 ; Stability certificate issued by the Approved Engineer. The learned Senior counsel appearing for the petitioner would submit that the school management has made an application for upgradation of school upto 8th Standard. Therefore, said approval from DTCP would not apply to the facts of the case. If new school has been established, they will apply for DTCP approval as per the provisions of the



Act in the light of the order passed by the Division Bench of this Court in THE DIRECTOR OF ELEMENTARY EDUCATION AND 3 OTHERS VS. JESUS GARDEN NURSERY AND PRIMARY SCHOOL & TWO OTHERS [W.A.No.644 of 2021, dated 9.4.2021] Therefore, the petitioner has obtained permission from the Panchayat for construction of the additional building on the same premises. According to the Senior counsel appearing for the petitioner school, the petitioner has complied with the said conditions. To that extent, the learned counsel appearing for the respondent also agreed that if such approval granted by the Panchayat, same shall be produced before the authorities. The learned counsel appearing for the petitioner submitted that the petitioner has already filed approval, dated 31.9.2012 granted by the Panchayat along with the application submitted by the petitioner. Therefore, said condition also has been complied with by the petitioner.

The learned Senior counsel appearing for the petitioner further submitted that on the earlier occasion also, the Director of Elementary Education also agreed that said condition has been complied with by the petitioner. The Joint Director of Elementary Education present before this Court, agreed that said condition has been complied with by the petitioner.

(x) Insofar as the last condition is concerned, as pointed out by the respondent in the status report, the petitioner has complied with the said condition based on the G.O.Ms.No.175 issued by School Education department, dated 20.7.2017.

2. Therefore, insofar as those conditions which are not complied with by the petitioner as stated by the Joint Director of Elementary Education as stated in earlier paragraph, the petitioner school Management has agreed to comply with the said defects pointed out by the respondent department and necessary documents will be placed before the Chief Educational Officer or before the Joint Director of School Education at the earliest for considering the application for grant of upgradation of elementary school to Middle school.

3. The Joint Director, Elementary Education appeared before this Court would submit that Chief Educational officer will inspect the petitioner school premises on 17.7.2021 and submit report to the Joint Director on or before 22.7.2021. On that, writ petitioner shall make necessary arrangement for inspection and required to produce relevant documents if any, before the Joint Director, Elementary Education within four weeks time.



4. Based on the report of the Chief Educational Officer, the Joint Director of Elementary Education shall consider the said application and pass appropriate orders for granting temporary recognition for the academic year 2021-22 to the petitioner's school within a period of four weeks thereafter, subject to the compliance of the aforesaid conditions.

5. With the above direction, the writ petition is disposed of. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1 The Chief Educational officer,
Office of the Chief Educationl Officer, 1st Floor,
Collectorate,
Annexe Building, Tiruvarur 610 004.
- 2 The Chief Educational Officer,
Panagal Building, Thanjavur HO., Thanjavur 613 001.
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- 5 The Joint Director of Elementary Education,
College Road, Nungambakkam, Chennai 600 034.

2cc to M/S.S.Haroon Al Rasheed, Advocate, S.R.No.32982
+1cc to the Government Pleader, S.R.No.33302

W.P.No.4851 of 2021
and W.M.P.No.5466 of 2021

VSN II (CO)
KKV/16/07/2021