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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.18429 of 2021

Dolphine Nursery and Primary School
rep.by its Correspondent Mr.K.Rajagopal
I.P. Kovil Mela Street, Vijayapuram
Tiruvarur 610 109.

... Petitioner

-Vs-

1. The Director of School Education
DPI Complex, College Road
Chennai - 600 006.
2. The Director of Elementary Education
DPI Complex, College Road
Chennai 600 006.
3. The Chief Education Officer
Thiruvarur District, Thiruvarur.
4. The District Education Officer
Thiruvarur District, Thiruvarur.
5. The Regional Education Officer
O/o the Regional Education officer-3
Thiruvarur.

... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus Calling for records and quash the impugned order issued by the 5th Respondent in her proceedings in O.Mu.No.910/A3/ 2021 dated 29.03.2021 and consequently directing the 4th and 5th Respondents to pass an order upgrading the recognition to the petitioner from primary (LKG to V std) to a Middle school (up to VII Std) within a time frame as may be fixed by this Honble Court.

For Petitioner : Mr.D.Baskar



For Respondents : Mr.A.Selvendran
Government Advocate

O R D E R

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On consent given by either side, the main writ petition itself has been taken up for final hearing.

2. This writ petition has been filed challenging the impugned proceedings of the fifth respondent dated 29.03.2021 and for a consequential direction to the fourth and fifth respondents to consider the application submitted by the petitioner seeking for upgradation of the school from Primary to Middle School.

3. The petitioner school was granted permission to start primary school from L.K.G., to 5th standard during the academic year 2003-04 by the first respondent through the proceedings dated 01.06.2004. This recognition has been renewed regularly and the fourth respondent, by proceedings dated 26.07.2021 has renewed the recognition till 31.05.2022 insofar as the primary division is concerned.

4. The petitioner submitted an application before the third respondent on 21.05.2020 seeking for upgradation from primary school to middle school. According to the petitioner, they have complied with all the requirements and were awaiting for the approval to upgrade the school into middle school. However, the fifth respondent has proceeded to issue the impugned proceedings by returning back the application submitted by the petitioners. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard Mr.D.Baskar, learned counsel appearing for the petitioner and Mr.A.Selvendran, learned Government Advocate appearing for the respondents.

6. It is seen from records that, the petitioner has already been given permission to run the primary school and it has been renewed from time to time. Insofar as the upgradation into middle school, the petitioner has submitted an application along with all the necessary certificates and the renewal given to the primary school up to date. It is stated that the 25% allotment of students under the R.T.E Act is also made applicable to the petitioner school right from entry level classes. However, these students will be able to continue in the school only upto 5th Standard, whereas they are entitled to continue upto 8th Standard under the R.T.E.Act. The respondents ought to have kept this in mind along with relevant guidelines prescribed



under the Tamil Nadu Private Schools (Regulation) Act 1973 while considering the application submitted by the petitioner. However, the fifth respondent has merely returned back the application without assigning any reasons. It is not known as to whether the fifth respondent can even consider the application submitted by the petitioner since the jurisdiction is only vested on the third respondent.

6. In view of the above, the impugned proceedings of the fifth respondent dated 29.03.2021 is hereby quashed. The fifth respondent is directed to hand over the entire files to the third respondent within a period of two weeks from the date of receipt of a copy of this order. The third respondent shall issue a notice to the petitioner and call for the relevant records / explanation from the petitioner and consider the application submitted by the petitioner school seeking for upgradation to middle school. The third respondent shall take a decision in this regard strictly in accordance with law within a period of six weeks thereafter. If the third respondent takes a decision to upgrade the school into a middle school, necessary conditions shall be imposed in the approval order and it shall be ensured that the petitioner does not claim the status of a matriculation school without satisfying the norms prescribed for a matriculation school.

7. The petitioner is directed to make a fresh representation along with all the relevant documents and also a copy of this order before the third respondent. A copy of the representation shall also be marked to the fifth respondent.

8. With the above directions, this writ petition is allowed. No costs.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

KST

To

1. The Director of School Education
DPI Complex, College Road
Chennai - 600 006.



2. The Director of Elementary Education
DPI Complex, College Road
Chennai 600 006.

3. The Chief Education Officer
Thiruvarur District, Thiruvarur.

4. The District Education Officer
Thiruvarur District, Thiruvarur.

5. The Regional Education Officer
O/o the Regional Education officer-3
Thiruvarur.

+1cc to M/s.D.Baskar, Advocate, S.R.No.44370

+1cc to the Government Pleader, High Court, Madras, S.R.No.44883

W.P.No.18429 of 2021

GP(CO)
SU(24/09/2021)