



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.15925 of 2020

The Correspondent,
Ravel Matriculation School,
Seerapalayam, Madukkarai,
Coimbatore - 641 105.

... Petitioner

vs.

1. The State of Tamil Nadu,
rep. by its Secretary,
Department of School Education,
Fort St. George,
Chennai 600 009.
2. The Director of Matriculation Schools,
College Road,
Chennai 600 006.
3. The Joint Director of Matriculation Schools,
College Road,
Chennai 600 006.
4. The Chief Educational Officer,
500, Raja Street, Near Five Corner
Town Hall, Coimbatore - 641 001.
5. The District Educational Officer,
Perur (E) Kuniamuthoor,
Coimbatore - 641 008.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records relating to the impugned order issued by the 5th Respondent/District Educational Officer, in Na.Ka.No.10636/A4/2018, dated 09.01.2020, quash the same and further direct the Respondents to grant forthwith renewal of recognition to the Petitioner's School viz. 'Ravel Matriculation School', Seerapalayam, Madukkarai, Coimbatore District, without insisting upon the Petitioner to transfer the landed properties in the name of the School by way of lease for a period of 30 years.



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For Petitioner : Mr. Godson Swaminathan,
for M/s. Isaac Chambers

For Respondents : Mr. Stalin Abimanyu,
Additional Government Pleader

O R D E R

Petitioner-School has come up with this Writ Petition challenging the impugned order passed by the 5th Respondent/District Educational Officer, Coimbatore vide proceedings in Na.Ka.No.10636/A4/2018, dated 09.01.2020, and for a direction to the Respondents to forthwith grant renewal of recognition to their School, without insisting upon them to transfer the landed properties in the name of the School by way of lease for a period of 30 years.

2. According to the Petitioner-School, vide letter dated 22.09.2017, they applied for renewal of recognition of their School from 01.06.2017 to 31.05.2019 to the 2nd Respondent/Director of Matriculation Schools, Chennai, in the prescribed format with all necessary enclosures. The 3rd Respondent herein, after scrutinizing the related documents furnished by the Petitioner School, vide proceedings dated 02.02.2018, informed the School that, certain documents are necessary. Thereafter, the Petitioner-School vide letter dated 16.02.2018 submitted the requisite documents to the Inspector of Matriculation Schools. However, the Petitioner's Application was returned by the 3rd Respondent stating that, the registered Lease Deed must be enclosed.

3. Thereafter, vide letter dated 30.11.2018, the Petitioner-School informed the Director of Matriculation Schools that, the School is being run by the Society and enclosed necessary documents including the land documents of the Society along with a self-declaration Certificate of the Society certifying that, the land in which the School is situated stands earmarked exclusively for the School and the same shall be for the exclusive use of the School.

4. Pursuant thereto, the 5th Respondent vide proceedings dated 24.01.2019, returned the Petitioner's proposal for recognition. Thereafter, vide letter dated 05.02.2019, the Petitioner resubmitted the proposal enclosing requisite documents. However, vide proceedings dated 09.01.2020, the 5th Respondent sought for registered Lease Deed in the name of the Petitioner School for 30 years to process the Petitioner's Application for renewal of recognition. Though the Petitioner sent a detailed explanation on 20.01.2020 as regards furnishing



of registered Lease Deed, there was no response to the same. Hence, challenging the impugned proceedings dated 09.01.2020, the Petitioner has come up with the present Writ Petition.

5. Learned counsel for the Petitioner contended that, inasmuch as the Petitioner has been running the School with recognition all these years from the beginning, Respondents ought to have granted renewal of recognition to the Petitioner School and any delay in the grant of continuous recognition to the Petitioner's School would adversely affect the interest of the School and the students. He further submitted that, the issue in question is no longer res integra, as it has already been decided by the Madurai Bench of this Court in W.P.(MD) No.12933 of 2012 vide order dated 24.01.2013.

6. Learned Additional Government Pleader appearing for the Respondents, with reference to the counter Affidavit filed by the 5th Respondent, submitted that, based on the recommendations of Prof. S.V.Chittibabu Commission, the Government issued G.O.Ms.No.48, School Education Department, dated 21.07.2004, prescribing fee structure, minimum infrastructural facilities, etc., which include land area for each School, depending upon its location.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. In respect of School building, the Government vide G.O.Ms.No.48, School Education Department, dated 21.07.2004, has ordered that, School building should be planned suitably and adequately; they should be owned or secured on a rent free basis or taken on a long lease of 30 years and the Management should produce a licence permitting the use of the School building as a public building under the Tamil Nadu Public Buildings Licensing Act, 1963.

9. For better appreciation of the case, relevant portion of the order dated 24.01.2013 passed by the Madurai Bench of this Court in W.P.(MD) No.12933 of 2012, is extracted hereunder:

"3. There is no dispute about the fact that, the School is run by the Petitioner, which is incorporated as a Company under Section 25(A) of the Companies Act, 1956. Paragraph Nos.4 and 16 of the counter affidavit filed by the Director of Matriculation Schools also confirm the fact that, the School has adequate provision of land. The land is actually owned by the Petitioner, which is a Company incorporated under Section 25(A) of the Companies Act, 1956. Thinking that, the School is a



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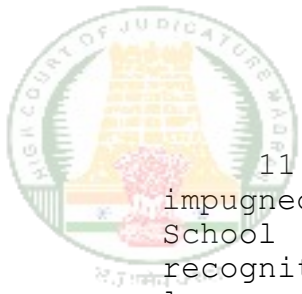
different entity, the Director of Matriculation Schools seems to have entertained a doubt that the School cannot claim recognition unless they get a registered lease deed in their favour. But, such a stand cannot be sustained in law. The School is actually not a juristic person. The petitioner is the educational agency running the School.

4. Even in State Board Schools, which are governed by the Tamil Nadu Recognized Private Schools (Regulation) Act, 1973, all the properties vest only with the Educational Agency running the Schools. Though the Act contemplates the formation of School Committees, such School Committees are vested only with certain powers and they are not legal entities even to sue or be sued in a court of law.

5. Insofar as the Matriculation Schools are concerned, they are governed by the Code. The Code does not appear to speak of any such Committee. Assuming that an educational agency is obliged to constitute a committee, there can be no lease or rental agreement by the educational agency in favour of such a committee, as such a committee would only be a creature of the educational agency itself.

6. Today, what is required by the impugned order is an execution of lease deed by the owner of the property in favour of a committee constituted by the owner himself. To create a lease, there must be a lessor and there must be a lessee. In this case, the lessor is the educational agency and the lessee will also be a committee constituted by the educational agency. There can be no transfer of property, as per the Transfer of Property Act, 1882. Hence, the demand made in the impugned order cannot be sustained."

10. In the case on hand, the Petitioner School is governed by the Code of Regulations for Matriculation Schools, Tamil Nadu. It is seen that, the 2nd Respondent/Director of Matriculation Schools, being satisfied with the available infrastructural and instructional facilities, granted temporary recognition to the School from 2014-2015 to 2016-2017. Thereafter, the Petitioner School, vide letter dated 22.09.2017 applied for renewal of recognition from 01.06.2017 to 31.05.2019 to the 2nd Respondent herein through the Inspector of Matriculation Schools.



11. Even in the case on hand, what is required by the impugned order is an execution of lease deed by the Petitioner School to process the Petitioner's Application for renewal of recognition. Admittedly, to create a lease, there must be a lessor and there must be a lessee. When the lessor is the educational agency, the lessee will also be a Committee constituted by the educational agency. When the Petitioner School has already been granted temporary recognition to run the School and when the issue in question has already been settled by this Court in W.P.(MD) No.12933 of 2012 vide order dated 24.01.2013, this Court has no hesitation to interfere with the order impugned in this Writ Petition.

12. Accordingly, the impugned order dated 09.01.2020 passed by the 5th Respondent herein is set aside and the Respondents are directed to grant renewal of recognition to the Petitioner School, if the Petitioner satisfies the requirements stipulated in G.O.Ms.No.48, School Education Department, dated 21.07.2004, as regards School building.

The Writ Petition is allowed with the above direction. No costs. Consequently, connected W.M.P.Nos.19796 and 19797 of 2020 are closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

- 1.The Secretary, State of Tamil Nadu, Department of School Education, Fort St. George, Chennai 600 009.
- 2.The Director of Matriculation Schools, College Road, Chennai 600 006.
- 3.The Joint Director of Matriculation Schools, College Road, Chennai 600 006.
- 4.The Chief Educational Officer, 500, Raja Street, Near Five Corner, Town Hall, Coimbatore - 641 001.
- 5.The District Educational Officer, Perur (E) Kuniamuthoor, Coimbatore - 641 008.

+1cc to Government Pleader SR. No.69561

W.P.No.15925 of 2020

PCH (CO)

PR (10/02/2022)