



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.20370 of 2014
& MP. Nos.1 & 2 of 2014

Sai Vihar Nursery and Primary School,
rep. by its Founder & Correspondent
C.Kuppusamy,
Arisipalayam, Salem Urban Union,
Salem-636 009.

.. Petitioner

Vs

1. The State of Tamil Nadu,
rep. by its Chief Secretary,
Education Department, Secretariat,
St. George Fort, Chennai-600 009

2.The Chief Educational Officer,
College Road, Chennai-600 006

3.The District Education Officer for
Primary Education(Urban),
Salem City-636 001

...Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the communication in Na.Ka.No.0027/A4/2014 dated 23.07.2014 issued by the third respondent and to quash the same and consequently direct the respondents to issue licence under the Tamil Nadu Public Building(Licensing) Act, 1965 to the petitioner for running a Nursery and Primary School in the building bearing D.No.125JKL, Arisipalayam Main Road, Salem-636 009.

For Petitioner : Mr.Umashankar for Mr.T.Dhanasekaran

For Respondents : Mr.A.Selvendran, GA, for RR1 to 3

ORDER

This writ petition has been filed seeking for issuance of a Certiorarified Mandamus, calling for the records pertaining to the communication in Na.Ka.No.0027/A4/2014 dated 23.07.2014 issued by the third respondent and to quash the same and consequently direct the respondents to issue licence under the provisions of the Tamil Nadu Public Building (Licensing) Act,



1965 to the petitioner for running a Nursery and Primary School in the building bearing D.No.125JKL, Arisipalayam Main Road, Salem-636 009.

2. The case of the petitioner is that the petitioner is the Founder and Correspondent of the Sai Vihar Nursery and Primary School and he submitted an application dated 27.05.2010 to the Tahsildar, Salem District along with necessary required certificates for grant of building licence for running a Nursery and Primary School at Arisipalayam Main Road, Salem District. Though the application has been filed in the year 2010, but till date, the same is pending. The third respondent sent a communication dated 05.05.2014 stating that the petitioner School has not obtained permission, to which the petitioner submitted a reply dated 28.05.2014 mentioning about the pendency of WP.No.10945 of 2011. Again the third respondent sent a communication on 19.06.2014, to which the petitioner also sent a reply dated 25.06.2014. The third respondent sent a further communication on 23.07.2014 stating that the petitioner school should be closed by 31.07.2014 and a fine of Rs.1 lakh will be levied if the school runs, as against the petitioner. Against the said order, the present writ petition has been filed by the petitioner.

3. The aforesaid impugned proceedings were passed by the third respondent in the year 2014. Thereafter, the matter was taken up for hearing on 01.07.2021 wherein, this Court has directed the Educational authority to inspect the school and submit the status report. The Educational authority inspected and submitted a report before this Court, wherein, it has been specifically stated that the petitioner has not obtained DTCP approval and there was no document submitted for grant of approval, before the authority concerned.

4. The learned counsel for the petitioner submitted that the aforesaid DTCP approval is not required as far as the petitioner school is concerned since it was established in the year 2010. He pointed out that the said approval is required for the subsequent schools which were established from the year 2011. The learned counsel further submitted that the petitioner sent a reply to the Educational Authority and again the authority has inspected the school on 07.07.2021. Again, the petitioner sent a reply to the Educational Authority explaining that the aforesaid approval is not required so far as the petitioner school is concerned. On this aspect, the relief as prayed for in the writ petition and based on the report and the defects pointed out therein by the authority concerned shall be considered by the Chief Educational Officer in accordance with law.

5. Therefore, in view of the above, if the authority is satisfied with the aforesaid explanation of the petitioner for the defects pointed out by the authority, necessary permission



may be granted to the petitioner as per the provisions of the Act. If not satisfied, the authority shall pass orders immediately, in accordance with law and as per the provisions of the Act. The said exercise shall be completed within a period of four weeks from the date of receipt of a copy of this order. It is made clear that if the petitioner wants to make any further explanation or any other materials, the same shall be submitted to the authority within one week from the date of receipt of a copy of this order.

6. With the above observation, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu,
rep. by its Chief Secretary,
Education Department, Secretariat,
St. George Fort, Chennai-600 009

2.The Chief Educational Officer,
College Road, Chennai-600 006

3.The District Education Officer for
Primary Education(Urban),
Salem City-636 001

+2cc to Mr.C.Uma Shankar, Advocate, S.R.No. 31892
+1cc to the Government Pleader, S.R.No. 32131

W.P.No.20370 of 2014

KV(CO)
GN(04/08/2021)