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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.22196 OF 2021

Srimathi Kunjammal Nursery & Primary School,
Rep. By its Correspondent,
Mrs.K.Mangayarkarasi,
39-75, Pidari Kovil Street,
Kodavasal, Thiruvarur District - 612 601.

... 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 Block Education Officer,
O/o.The Block Education Officer-1,
Kudavasal.

... Respondents

Prayer:-

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarifid Mandamus, calling for records and quash the impugned Order issued by the 4th respondent in his proceeding in O.Mu.No.2377/A4/2020 dated 27.11.2020 and the subsequent proceedings of the 5th Respondent in Na.Ka.No.20/A4/2020 dated 20.01.2021 and consequently directing the 3rd Respondent to pass an order upgrading the



recognition to the Petitioner from Primary (LKG to V std.) to Elementary (up to VIII Std.) within a time frame to be fixed by this Court.

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For Petitioner : Mr.D.Baskar

For Respondents : Mr.A.Selvendran
Government Advocate

O R D E R

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

2. The Petitioner has challenged the impugned refusal letter issued by the 4th respondent dated 27.11.2020 and the subsequent proceeding dated 20.1.2021 and has sought for consequential direction to the 3rd respondent to pass orders on the application submitted by the petitioner School seeking for upgradation of the School from Primary to Middle School.

3. The case of the petitioner is that they have been granted permission by the concerned authority to run a Nursery and Primary School. The further case of the petitioner is that recognition was given from the year 1973 and it continues till date insofar as the Primary School is concerned. It is stated that the petitioner School is also admitting students under the 25 % quota provided under the Right to Education Act.

4. The petitioner submitted an application on 26.5.2020 seeking for upgradation of the school into a middle School. According to the petitioner they satisfy all the requirements. The grievance of the petitioner is that the 4th and 5th respondents without considering the application have mechanically returned the same without any application of mind and without following the procedure and the relevant Government orders. Aggrieved by the same, the present writ petition has been filed before this Court.

5. Heard learned counsel for the petitioner and learned counsel appearing on behalf of the respondents.

6. In the considered view of this Court, insofar as the upgradation of a Primary School into a Middle School is concerned, the same is governed by the relevant Government orders. This Court had an occasion to deal with the relevant Government order while disposing of the writ petition in W.P(MD) No.11818 of 2021 by an order dated 27.07.2021. The relevant portions in the order are extracted hereunder:



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6. It is an admitted case that the petitioner had already been given recognition upto 5th Standard. The petitioner was seeking for up gradation in order to impart education upto 8th Standard. The main ground that was urged by the learned counsel for the petitioner is that the Government had formed a Committee and based on the report submitted by the Committee, G.O.Ms.No.175 School Education Department, dated 20.07.2017 was issued and as per this Government Order, it is applicable to the existing Schools and it has been mentioned that if the land space is not fulfilled in the ratio of 10 sq.ft., per Student and 40 sq.ft., per teacher, the School will not be entitled for up gradation. It is also stated in the Government Order that except the norms pertaining to the land space as specified in G.O.Ms.Nos.24 and 48 referred supra, all the other conditions imposed under these two Government Orders will be applicable.
7. A careful reading of the impugned proceedings of the second respondent shows that no reliance has been placed upon G.O.Ms.No.175, dated 20.07.2017. The second respondent has proceeded to determine the land space by placing reliance upon G.O.Ms.Nos.24 and 48 which have now been superseded by G.O.Ms.No.175. The impugned proceedings of the second respondent requires the interference of this Court on this ground alone. The specific case of the petitioner is that they satisfy the norms with regard to land space as provided under G.O.Ms.No.175 and they are also satisfying all the other norms as specified under G.O.Ms.Nos.24 and 48 respectively.
8. In view of the above discussion, the impugned proceedings of the second respondent dated 26.02.2021 is hereby quashed and the matter is remanded back to the file of the second respondent. The second respondent is directed to deal with the application submitted by the petitioner in line with G.O.Ms.No.175 dated 20.07.2017 insofar as the land space is concerned. Insofar as all the other requirements, the second respondent shall satisfy himself on the requirements provided under G.O.Ms.No.48 dated 21.07.2004 and



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G.O.Ms.No.24 dated 23.04.2010 and proceed to consider the up gradation of the School from LKG to 8th Standard. This process shall be completed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order.

7. It is clear from the above that the respondents 4 and 5 ought to have considered the application submitted by the petitioner School in line with the relevant Government orders and it should not have been returned through the impugned proceedings.

8. In view of the above discussion, the impugned proceedings of the 4th and 5th respondents are hereby quashed. The matter is remanded back to the file of the 3rd respondent with a direction to the 3rd respondent to deal with the application submitted by the petitioner on its own merits and in accordance with the relevant Government orders and take a decision within a period of six weeks from the date of receipt of copy of this order.

9. The petitioner is directed to make a fresh representation to the 3rd respondent along with all the relevant documents and also a copy of this order.

10. This writ petition is allowed with the above directions. No costs.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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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 Block Education Officer,
O/o. The Block Education Officer-1,
Kudavasal.

+1cc to Mr.D.Baskar, Advocate, S.R.No.54170

+1cc to the Government Pleader, S.R.No.54252

WRIT PETITION NO.22196 OF 2021

GJ(CO)
PBS/15/11/2021