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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2021

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI,
ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU
W.P.No.26173 of 2021

T.Samseer Ahamed

... Petitioner

Vs

- 1.The State of Tamilnadu,
rep. by its Secretary to Government,
Higher Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The State of Tamilnadu,
rep. by its Secretary to Government,
Youth Welfare and Sports Development Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 3.The Director of Collegiate Education,
Directorate of Collegiate Education,
Chennai - 600 006.
- 4.The Member Secretary,
Sports Development Authority of Tamilnadu,
No.116-A, Periyar EVR High Road,
Nehru Park, Chennai - 84.
- 5.The District Collector,
Tiruppur District, Tiruppur.
- 6.The District Sports Officer,
District Sports Office,
Tiruppur - 641 604.



7.The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur - 641 604.

8.The Principal,
Chikkanna Government Arts College,
College Road,
Tiruppur - 641 602.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India praying for a writ of declaration declaring that the proceedings issued by the 5th respondent dated 24.8.2020 in Na.Ka.1797/2000/ Aal granting enter upon permission to construct an open air outdoor stadium in Chikkanna Government Arts College as illegal, arbitrary, against the procedure established by law and would be detrimental to the development and expansion of the college and consequently direct the respondents to restrain from using the land belonging to the Chikkanna Government Arts College, Tiruppur for any purposes other than imparting education.

For the Petitioner : Mr.K.C.Karl Marx

For the Respondents : Mr.C.Harsha Raj,
Addl. Government Pleader
assisted by
Mr.Mohd. Sathik
Government Advocate
for respondent Nos.1 to 8

ORDER

(Order of the Court was made by
the Hon'ble Acting Chief Justice)

This public interest litigation has been filed to declare the proceedings of the fifth respondent dated 24.8.2020 granting permission to enter upon and construct an open air outdoor stadium at Chikkanna Government Arts College, Tiruppur, to be illegal and against the procedure established by law and otherwise detrimental to the development and expansion of the College.



2. Learned counsel appearing for the petitioner submitted that part of the land belonging to the College is going to be used for construction of an open air outdoor stadium without following the procedure and process for transfer of the land. He submits that without transfer of the land in the manner known to law, a decision was taken to construct an open air outdoor stadium in the land belonging to the College. The construction is being made against the provisions and thereby affecting the educational activities in the College concerned.

3. Referring to the Revenue Standing Orders for transfer of the land from one department to another department of the State Government, learned counsel for the petitioner submitted that the District Collector was not having power to transfer the land exceeding an extent of 10 acres and having market value of more than Rs.50,000/- or maximum Rs.2 lakh. In the instant case, the value of the land is more than it, thus, the District Collector was not having power to transfer the land for construction of an open air outdoor stadium. Learned counsel for the petitioner also submitted that an objection to the decision of the District Collector was taken, but no credence was given, rather the construction of the stadium has been started. In view of the above, an appropriate direction be given to the official respondents not to raise construction of an open air outdoor stadium in the land belonging to the College. Referring to the pleadings, it is further submitted that even to impart education, number of class rooms are required to be constructed and in those circumstances also, the respondents may not be permitted to raise construction of an open air outdoor stadium and accordingly, the writ petition may be allowed.

4. We have considered the submissions made by learned counsel for the petitioner and also placed on record.

5. A perusal of the record shows that before taking a decision to transfer the land, an advertisement was given to invite objections. No objection was raised by anybody and thereupon by following the procedure, the transfer of the land was effected for construction of an open air outdoor stadium. The process as referred to by the petitioner under Clause (ii) of the Revenue Standing Order 23A(1) does not apply in this case. It applies when transfer of the land has been claimed by two or more departments. In the instant case, only two departments are in picture, not a third department and, therefore, the District Collector was having competence to take



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a decision to transfer the land. Thus, the transfer of the land was made after inviting objections. Since no objection was raised at the relevant point of time, it cannot be said that transfer of land and the construction of an open air outdoor stadium is illegal.

6. Learned counsel for the petitioner is not able to clarify as to why objection pursuant to the advertisement was not raised, however, he made a reference to a news flashed in a local newspaper referring to the objection against the transfer of the land. The news paper referred by learned counsel for the petitioner cannot be taken as an objection pursuant to the advertisement. In view of the above, we do not find any reason to issue a declaration in the nature, as prayed for by the petitioner. It is more so when the College is having 40 acres of land out of which a part has been transferred for construction of an open air outdoor stadium which can be used even by the students of the College apart from public. It cannot be said that the proceedings of the fifth respondent granting permission to enter upon and construct an open air outdoor stadium is illegal.

7. Even a part of the land belonging to the College is stated to have been encroached by others and the College has failed to secure its land from encroachment. Thus, in the facts and circumstances of the case, we do find it necessary to give a direction to the official respondents to remove the existing encroachment in the part of the land, but we are not inclined to grant the prayer made by the petitioner challenging the transfer of land and the construction of an open air outdoor stadium.

8. Accordingly, the writ petition is disposed of with a direction to the official respondents to remove the encroachment made in land belonging to the College, but no direction is issued adverse to the construction or transfer of the land for construction of an open air outdoor stadium. There will be no order as to costs. Consequently, W.M.P.No.27628 of 2021 is closed.

SD/-
ASSISTANT REGISTRAR

// TRUE COPY //

SUB ASSISTANT REGISTRAR



bbr
To:

- 1.The Secretary to Government,
State of Tamilnadu,
Higher Education Department,
Secretariat, Fort St. George,
Chennai - 600 009.
- 2.The Secretary to Government,
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Youth Welfare and Sports Development Department,
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- 5.The District Collector,
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- 6.The District Sports Officer,
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- 7.The Commissioner,
Tiruppur City Municipal Corporation,
Tiruppur - 641 604.
- 8.The Principal,
Chikkanna Government Arts College,
College Road,
Tiruppur - 641 602.

+lcc to Mr.Karlmarx, Advocate Sr.65009
+lcc to the Government Pleader Sr.65347

W.P.No.26173 of 2021

pmk[co]
srg 14/12/2021