

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No. 31168 of 2019

St. Moses Matriculation School  
Rep. By its Correspondent  
R.Dorathi Prema  
No.3, Jaganathan Street  
T.V.K. Nagar  
Chennai - 600 082.

... Petitioner

Vs.

1.The State of Tamil Nadu  
Represented by its Secretary to Government  
School Education Department  
Government of Tamil Nadu  
Secretariat, Fort St. George  
Chennai - 600 009.

2.The Director of Matriculation Schools  
DPI Campus, College Road  
Chennai, Tamil Nadu - 600 006.

... Respondents

Prayer:Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to proceedings in Na.Ka. No. 1550/A3/2019 dated 11.10.2019 and quash the same and consequently, directing the second respondent to grant permission to the petitioner school for classes XI and XII commencing from the academic year 2019-20.

For Petitioner : Mr.C.S.Sreenedhi  
For M/s. P.Wilson Associates

For Respondents: Mrs. Sangamithirai  
Special Government Pleader (For R1)

Mr. Stalin Abhimanyu (For R2)  
Additional Government Pleader (Edn.)

O R D E R

The petitioner has filed this writ petition seeking issuance of Writ of Certiorarified Mandamus calling for the records of the second respondent pertaining to proceedings in Na.Ka. No. 1550/A3/2019 dated 11.10.2019 and quash the same and consequently, directing the second respondent to grant

permission to the petitioner school for classes XI and XII commencing from the academic year 2019-20.

2. The case of the petitioner is that she is the Correspondent of the petitioner School and the School was established by St.Moses Educational Trust in the year 1995 with the object of imparting quality education and the said school stands on 3.76 grounds with an additional extent of 0.8 grounds for parking. The petitioner's School was first granted permission to open a Matriculation school with Classes I to VII and subsequently granted permission for Classes IX and X and the petitioner's School recognition has been periodically extended by the 2<sup>nd</sup> respondent. While so, the petitioner wanted to upgrade the school with Classes XI and XII and made an application with relevant annexures dated 09.01.2019 to the 2<sup>nd</sup> respondent, seeking up-gradation of the school to higher secondary with XI and XII classes. However, the 2<sup>nd</sup> respondent vide impugned order dated 11.10.2019 has rejected permission on the grounds that less land is available in the school, the classrooms are lesser than 400 sq.ft, fire safety clearance not obtained and there is lack of hand washing and drinking water taps. Aggrieved by the said impugned order, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner submitted that the Government has issued orders in G.O.(2d) No.48, School Education Department dated 21.07.2004, prescribing minimum infrastructural facilities. The said Government Order was followed by issuance of G.O.(2D).No.24 dated 23.04.2010, wherein it is stated that the entire land area for the shcool should be composite land and the playground and any part of the school should not be in a different place. However, considering the fact that acquiring minimum land area for establishment of shcools cannot be achieved for various reasons, the Government has constituted a Committee to reconsider the entire issue and the said Committee submitted its report to the Government. Based on the said report of the Committee, the 1<sup>st</sup> respondent has issued orders in G.O.Ms.NO.175, School Education Department dated 20.07.2017 by relaxing conditions relating to infrastructural facilities for the schools not having satisfied the required minimum land area, whereby in respect of Schools not having met the minimum land requirement prescribed in the previous Government Orders, the admission of students has to be correspondingly reduced in order for each student to have the space of 10 sq.ft and each teacher having a space of 40 sq.ft and the same was to be verified by the concerned Inspector of Schools.

4. The learned counsel appearing for the petitioner further submitted that the impugned order has not followed G.O.Ms.No.175 dated 20.07.2017 while rejecting the application of the petitioner. Further the petitioner School has obtained a fire safety certificate, Form D License to run the School

issued by the Sub Collector and also a Sanitary Certificate. Therefore, the action of the 2<sup>nd</sup> respondent in not considering these documents and rejecting the application of the petitioner's School is wholly illegal and arbitrary and prays for allowing of this petition.

5. The learned Additional Government Pleader appearing for the respondents has drawn the attention of this Court to the counter affidavit filed by the 2<sup>nd</sup> respondent and submitted that the petitioner has submitted a proposal for upgradation of the existing Matriculation School into Matriculation Higher Secondary School to the District Educational Officer, Chennai North. On receipt of the proposal, the District Educational Officer, visited the school on 08.03.2019 and forwarded the detailed Inspection Report to the Chief Educational Officer, Chennai with certain remarks. The Chief Educational Officer, Chennai has endorsed the report and forwarded to the 2<sup>nd</sup> respondent, who after carefully scrutinizing the proposal, asked the Chief Educational Officer to inspect the School with regard to the available facilities. The Chief Educational Officer has inspected the School and submitted a detailed report remarking that the School should possess 6 grounds of land in one composite area as per norms. But the School is having only 3.76 grounds in one area and 0.8 grounds in 50 feet away from the school and all the class rooms are less than 400 sq.ft area. Thereafter, the proposal as received from the Chief Educational Officer, Chennai has been carefully perused by the 2<sup>nd</sup> respondent and rejected the claim of the petitioner. Therefore, the impugned order does not require interference of this Court, as the same was issued in accordance with the Government Orders.

6. This Court has carefully considered the rival submissions and also perused the materials placed before it.

7. As per the Government Orders in G.O.(2d) No.48, School Education Department dated 21.07.2004, G.O.(2D).No.24 dated 23.04.2010, G.O.Ms.NO.175, School Education Department dated 20.07.2017 and recent letter dated 08.04.2021, it is clear that the minimum land area requirements for starting Matriculation Higher Secondary School, in respect of Corporation, is 6 grounds. However, the petitioner's School is possessing only 3.84 grounds, which is less than the required land area and further the impugned order makes it clear that the petitioner School has not satisfied the minimum land criteria and all the class rooms are less than 400 sq.ft area and there is lack of facilities. Therefore, it is clear that the petitioner's School does not satisfy the minimum land area requirements as per the said Government Orders. Unless and until they possess the land and the required space, there is no need for the authorities to give permission as the safety of children is paramount important. Therefore, the impugned order passed by the 2<sup>nd</sup> respondent does not warrant interference of this Court as there is no error apparent on

the face of it.

8. For the reasons aforesaid, this writ petition is dismissed. No costs.

Sd/-  
Assistant Registrar(CS-II)

//True copy//

Sub Assistant Registrar

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To

- 1.The Secretary to Government  
School Education Department  
Government of Tamil Nadu  
Secretariat, Fort St. George  
Chennai - 600 009.
- 2.The Director of Matriculation Schools  
DPI Campus, College Road  
Chennai, Tamil Nadu - 600 006.

+1cc to M/s. P.Wilson Associates, Advocate SR.No.68051

+1cc to Government Pleader SR.No.68350

W.P.No.31168 of 2019

AK II(CO)  
GMY(31/01/2022)