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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.04.2022

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THE HONOURABLE DR. JUSTICE ANITA SUMANTH

W.P.No.27867 of 2015

Chennai Metropolitan Development Authority
Area Village Panchayat Presidents Association
rep. by its Organising Secretary P.Mani
(Registration No.249/2012)
No.2/77 Avadi Main Road
Seneer Kuppam,
Chennai-56.

...Petitioner

Vs

1. The Secretary to Government,
Housing & Urban Development Department,
Government of Tamil Nadu, Fort. St.George
Chennai - 600 009.

2. Chennai Metropolitan Development
Authority rep. by its Member Secretary
Gandhi Irwin Road, Egmore
Chennai - 600 008.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the second respondent to delegate the powers of sanctioning planning permission approval in respective Panchayat areas to the President of Village Panchayats within Chennai Metropolitan Development Authority as per G.O.Ms.No.71, Housing and Urban Development (TD.1) Department dated 25.02.1999.

For Petitioner : No Appearance

For R1 : Mr.TNC.Kaushik
Additional Government Pleader

For R2 : No Appearance

O R D E R

The petitioner, which is the Chennai Metropolitan Development Authority Area Village Panchayat Presidents Association (CMDA), is not represented.



2.The prayer is for a mandamus, directing the 2nd respondent i.e.,CMDA to delegate the powers of sanctioning planning permission in the respective Panchayat areas to the President of Village Panchayats, within CMDA, as per G.O.(Ms).No.71 of Housing and Urban Development(TN.1)Department, dated 25.02.1999.

3.Both the respondents, i.e the Secretary to Government, Housing and Urban Development/R1 and CMDA/R2 have filed individual counter affidavits in the matter.

4.Upon perusal of the counter affidavits, it is clear that the procedures that prevailed in regard to the sanction of planning permission as evolved from time to time, and the procedure that prevail currently are as follows:-

"a) Any approval of layout irrespective of extent of the land shall be issued by any category of local body only after obtaining prior concurrence of the appropriate authority of the Town and Country Planning department i.e., from the planning authority/regional office.

b) For approval of building plan in order to reduce the burden of developers who propose small developments alone, an order has been issued by Director of Town and Country Planning delegating the powers to the local bodies in respect of approval of building plans for residential building upto 4000 sq.ft. having maximum of ground + first floor and to a maximum of 4 dwelling units and for a commercial building of total floor area upto 2000 sq.ft with a maximum of ground + first floor by themselves on behalf of the Town and Country Planning Department. In respect of building proposal beyond the power delegations the local body has to forward the applications to the appropriate authority of the Town and Country Planning department to obtain prior permission required under Town and Country Planning Act as indicated above and then only the concerned local body is issuing approval for the building under the provisions of its respective building rules. In cases when such building plans received at appropriate authority of Town and Country Planning department viz., the planning authority/regional office, the approval is accorded in their level itself for buildings of total floor area not exceeding 25000sq.ft. and after the issue of approval, the paper is



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sent back to the concerned local body for further approval by it. Whereas, if the total floor area of the building exceeds 25000 sq.ft./the building is a multi-storeyed building (MSB), then such papers are referred to the Director of Town and Country Planning for concurrence before issue of approval by the respective planning authority/regional office of the Town and Country Planning department.

c)The Executive Authority of the Village Panchayat, will forward the applications for planning permission to the Director, Town and Country Planning (DTCP) for scrutiny and technical approval. After necessary approval by Director, Town and Country Planning (DTCP), the Village Panchayat will fix necessary fee and issue approval.

d) In CMDA area the planning officers are currently being deputed by CMDA to the Panchayat Unions within CMDA area to facilitate the issue of planning permission."

5.Mr. TNC.Kaushik, learned Additional Government Pleader for R-1 would state that there are 385 Panchayat Unions in Tamil Nadu and they do not have sufficient technical staff to engage Officers, as the subject of planning is Technical in nature. Accordingly planning permission involves technical knowledge, for which, DTCP and CMDA are well equipped.

6.In any event, the State has no intention of implementing G.O.Ms.No.71, and have thus deferred the same due to non-availability of competent staff to handle the issuance of planning permissions at the panchayat level. In my view, it would have been appropriate had the State withdrawn the aforesaid Government Order, as the same appears to have triggered several writ petitions on the same issue as before me now, as adumbrated by R2 in its counter affidavit.

7. This Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

jeni/sd



To

1. The Secretary to Government,
Housing & Urban Development Department,
Government of Tamil Nadu, Fort. St. George
Chennai - 600 009.

2. The Member Secretary,
Chennai Metropolitan Development Authority
Gandhi Irwin Road, Egmore
Chennai - 600 008.

+1cc to the Government Pleader, S.R.No.24566

W.P.No.27867 of 2015

KK(CO)
RGA(26/04/2022)