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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

W.P.No.36354 of 2015

and

M.P.No.1 of 2015

O.Manickam

Vs.

... Petitioner

1. State of Tamil Nadu
Rep.by Secretary
Educational Department
Ford St.George, Chennai 600 009.
2. The Corporation of Salem City
Rep.by its Commissioner
Salem 636 001.
3. The District Collector
Salem District, Salem.
4. The Assistant Commissioner
Corporation/Kondalampatti
Regional Office
Dadagapatti
Salem 636 006.
5. he Commissioner of Police
Salem City
Salem 636 006.
6. The Inspector of Police
Annathanapatty Police Station
Salem 636 006.
7. District Educational Officer
Salem District, Salem.
8. The Headmistress
Corporation Middle School
Dadagapatty
Salem - 636 006.

... Respondents



Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents as:-

(a) Directing the respondents 1, 2 and 4 to allow the corporation Middle School at Dadagapatti, Salem District to enjoy the playground and the building being utilized for the school without any intervention under the pretext of any scheme.

(b) Directing the 1st and 2nd respondents to take all efforts to improve and promote the Corporation Middle School to the level of High School to serve the children in that locality.

(c) Directing the 5th respondent to instruct the subordinate as the 6th respondent and others to listen to the grievances of the parents and their well wishers with regard to their rights to maintain access to the said middle schools.

For Petitioner : Mr.P.Rathinam

For Respondents: Mr.S.Arumugam
for R1, R3, R5 to R7
Government Advocate

Ms.K.Bhuvaneswari for R2 & R4

O R D E R

This writ petition has been filed by a Social Worker who apprehends that an existing Corporation Middle School is sought to be replaced with a commercial complex and hence, the petitioner sought for the issuance of writ of mandamus directing the respondents to continue with the School and to allow the students to enjoy the play ground and the School building without any intervention and for a further direction to the respondents to properly maintain the building and take steps to upgrade the School into a High School.

2.The case of the petitioner is that the Middle School consisting of classes from Standard 1 to 8 is being run for a long period of time and the Elementary School which was started in the year 1955 was upgraded to a Middle School in the year 2008. The School has also been provided with a play ground which is utilized by the students. The further case of the petitioner is that there are nearly 210 students and there are totally nine teachers who are conducting classes for the students, who are coming from the marginalized community.

3.The petitioner is aggrieved by the fact that an hasty attempt was made to build a commercial complex by taking over a



portion of the area belonging to the School. According to the petitioner, this will adversely affect the interest of the students and hence, this writ petition was filed seeking for appropriate directions.

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4. The 2nd and 4th respondents representing the Corporation of Salem have filed a counter affidavit. The relevant portions in the counter affidavit are extracted hereunder:

5) This respondent further submits that the existing Kondalampatty Ward Office is functioning, adjacent to the Middle School, the Ward AA, Block 17 and T.S.No.75, which is owned by the Commissioner, Salem Corporation and the total extent of the said land is 0.3251.5 acres. Further, the present population of the Kondalampatty Zone IV is 2.67 lakhs and it is thickly populated area. The Zonal Officer is also receiving so many complaints from the public with regard to drinking water facilities, street light maintenance, insufficient space for tax payer and "Aadhar" is also functioning in the very same place.

6) This respondent further submits that the proposal for construction came to be made for the new Kondalampatty Ward Office within the boundaries of existing Ward Office. The Corporation decided to expand the office premises and to construct additional office rooms for the convenience of the public and therefore proposal came to be prepared for the construction of additional office room at an estimated cost of Rs.316.00 lakhs with the financial assistance from the "Infrastructure Gap Filling Fund and Operation and Maintenance Gap filling Fund". It is pertinent to state that the above said proposal was also placed before the Council for its approval and the Council in turn has also resolved in its Resolution vide MCR No.248 dated 28.12.2014 and further the Salem Corporation has requested the state Government to sanction the funds under "Infrastructure Gap Filling Fund". It is specifically stated that in the proposal of construction, there is no interference or encroachment upon the school play ground and the Kondalampatty Corporation Ward Office had separate entrance gate. Therefore, the averments as raised in the writ petition are liable to be rejected in limine.

7) This respondent further submits that the Director of Municipal Administration, Chennai-5 has sanctioned the allotment of Rs.316.00 lakhs under IGFF & O & MGFF, vide its proceedings ROC No.2003/2015/Dol



dated 25.02.2015 towards the construction of additional Ward Office at Kondalampatty. It is needless to state that there is no proposal to shift the existing Corporation Middle School to other places.

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8) This respondent further submits that the School is already provided with play ground, Urinals and Laboratory and the same are very much available and there is no question of constructing commercial complex in the school area and it is only the construction of additional office rooms. The Kondalampatty Ward Office is functioning, adjacent to the Middle School and the construction of office building is for utilization of the public belongs to Kondalampatty Ward and tenders were invited and floated and the lowest rate quoted by "V.R.V. Construction" and Work order was also issued on 02.09.2015 and sequel to which Boomi pujai was performed and thereafter construction activities were also commenced for the construction of additional office rooms. At this juncture, the present writ petition came to be filed with an ill motive to stall the construction work and if the same is allowed, the entire project for the welfare of the public will go to waste and therefore, the writ petition is liable to be dismissed.

9) This respondent further submits that the School consists of 7 class rooms and there are 205 students studying and 9 teachers are working there, the School premises is fully equipped with all facilities including RCC building for better utilization and betterment of students and teachers and the school is functioning without any hindrance what so ever from any quarters and hence the writ petition lacks merit and therefore liable to be dismissed.

10) This respondent further states that the total extent of the play ground of the School is 8508 sq.ft and the topography of the School building is South by Kondalampatty Ward Office, North by Private land, West by Corporation Water Tank and East by Trichy Main Road and the School Building is separated from the play ground, thereby the Corporation Middle School is running without any intervention or huddles or disturbance for the past several years. There is no official proposal for construction of the commercial building in the above said land or there is no plan to construct any commercial building in the above said land in future also. It is utter false to allege that



there is a proposal to construct the commercial complex in the school area and the petitioner is a political motivated person to stop the proposal of the Kondalampatty New Ward Office.

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5.The 7th respondent, who is the District Educational Officer, Salem has filed a separate counter affidavit and the relevant portion in the counter affidavit is extracted hereunder:

4.It is submitted that Corporation Middle School, Sanjeevarayanpettai, Salem is allotted with funds for construction of additional class rooms. The Class of 4th and 5th is conducted in a separate class rooms. There is no separate H.M.Room, and the class room of 8th standard functioning as H.M's Room. The damaged buildings are being re-constructed by the concerned authorities. The school is having the strength of 202 students. As averred by the Writ Petitioner there is no communication from the Salem Corporation about the construction of commercial complex in the premises of the said school. If any such proposal or communication is received, the department will take appropriate action to stop the same. It is submitted that the Corporation Middle School at Sanjeevarayanpettai will continue to enjoy the play ground and the building being utilized for the school without any intervention under the pretext of any scheme. All efforts are undertaken by the District Elementary Educational Officer to improve and promote the Corporation Middle School to the level of High School to serve the children in that locality.

6.Heard Mr.P.Rathinam, learned counsel appearing on behalf of the petitioner, Mr.S.Arumugam, learned Government Advocate appearing on behalf of the respondents 1, 3, 5, 6 and 7 and M/s.K.Bhuvaneswari, learned counsel appearing on behalf of the 2nd and 4th respondents.

7.It is clear from the stand taken by the respondents that there is no attempt made to construct any commercial complex in the premises belonging to the School. In fact, the 7th respondent has specifically stated in the counter that if any such proposal is made, the Department will take appropriate action to stop such an activity. That apart, it is clear from the counter affidavit filed by the Corporation of Salem that what is proposed to be constructed is only an additional Ward Office within the space belonging to the Corporation and there is no attempt made to encroach upon the space allotted for the School. That apart, there is no attempt made to put up any commercial complex as apprehended by the petitioner.



8.The apprehension raised by the petitioner has been sufficiently answered by the respondents and there is absolutely no threat for running the School and the play ground being utilized by the students. The main relief that has been sought for by the petitioner is almost satisfied by virtue of the stand taken by the respondents in the counter affidavit. Insofar as the improvement of the infrastructure and the upgradation of the School into a high School, there shall be a direction to the 7th and 8th respondents to take necessary steps in this regard.

9.This writ petition is disposed of accordingly. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

ssr

To

1. The Secretary
Educational Department
Ford St.George, Chennai 600 009.
2. The Commissioner
Salem 636 001.
3. The District Collector
Salem District, Salem.
4. The Assistant Commissioner
Corporation/Kondalampatti
Regional Office
Dadagapatti, Salem 636 006.
5. The Commissioner of Police
Salem City, Salem 636 006.
6. The Inspector of Police
Annathanapatty Police Station
Salem 636 006.
7. The District Educational Officer
Salem District, Salem.



8. The Headmistress
Corporation Middle School
Dadagapatty, Salem - 636 006.

+1cc to the Government Pleader, S.R.No.33067

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