



WEB COPY



W.P.No.27482 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.11.2022

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P.No.27482 of 2022
and W.M.P.Nos.26706 & 26707 of 2022

The East West Foundation of India
Represented by its Administrative Officer Mrs.Usha
No.8, Kamala Avenue, Alamparai Beach Road
Kadapakkam Post, Cheyyur Taluk
Maduranthagam, Chengalpattu District.

.. Petitioner

vs

1. The Director of Elementary Education
DPI Campus
Chennai 600 006.
2. The Chief Educational Officer
Chengalpattu District.
3. The District Educational Officer
Maduranthagam, Chengalpattu District.
4. Block Educational Officer
Chithamoor, Chengalpattu District.
5. The Executive Officer
Idaikkazhinadu Town Panchayat, Chengalpattu District.

[R5 suo motu impleaded vide order dated
14.10.2022 in W.P.No.27482 of 2022]

.. Respondents



W.P.No.27482 of 2022

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.Oo Moo 625/A3/2022 dated 17.05.2022 and quash the same and consequently direct the respondent to grant recognition to the “Uluru Nursery and Primary School” established by the petitioner Trust for the classes LKG to V standard from the Academic Year 2019-2020 without insisting upon the approval from the Director of Town and Country Planning.

For Petitioner	:	Ms.Dakshayani Reddy
For Respondents 1 to 4 & suo motu impleaded Respondent 5	:	Mr.R.Kumaravel Additional Government Pleader

ORDER

The prayer sought for herein is a writ of Certiorarified Mandamus, calling for the records of the second respondent in Na.Ka.Oo Moo 625/A3/2022 dated 17.05.2022 and quash the same and consequently direct the respondent to grant recognition to the “Uluru Nursery and Primary School” established by the petitioner Trust for the classes LKG to V standard from the Academic Year 2019-2020 without insisting upon the approval from the Director of Town and Country Planning.



W.P.No.27482 of 2022

WEB COPY

2. The petitioner is a management of an Educational Institution, which wants to start a school for classes from LKG to 5th Standard in the name and style of “Uluru Nursery and Primary School” at Kadapakkam Village, Cheyyur Taluk, Chengalpattu District. When they applied to the respondents for getting approval, the same having been considered, was returned / rejected by the proceedings dated 17.05.2022. Challenging the same, the present writ petition has been filed.

3. Ms.Dakshayani Reddy, learned counsel appearing for the petitioner submits that there are four queries raised in the impugned order. In respect of query Nos.1, 2 and 4, the documents have already been produced to the respondents for their consideration and in respect of query No.3, what has been stated by the Director by their proceeding dated 05.11.2021 has to be made known to the petitioner and once it is revealed to the petitioner, the petitioner is ready and willing to report the same to the respondent, based on which, let them reconsider the issue and pass necessary orders, she contended.

4. Mr.R.Kumaravel, learned Additional Government Pleader appearing for the respondents, on instructions, would submit that insofar as query No.1 is



W.P.No.27482 of 2022

concerned, now the petitioner claimed that the petitioner is having the necessary land i.e., three acres and more, for which, documents are being produced. Like that, in query No.2 i.e., for sanitary certificate, it has been claimed to have been produced before the respondent, which would be verified. Insofar as the query No.3 is concerned, what are all the requirements that has been mentioned in the proceedings of the Director of Elementary Education dated 05.11.2021, would be revealed to the petitioner, based on which, let the petitioner file a compliance report to that effect.

5. Insofar as the query No.4 is concerned, though it is claimed by the petitioner that the petitioner have constructed so many buildings after getting approval from the local authorities prior to 01.01.2011, for which, there is no concurrence from the DTCP is required, admittedly, some more buildings have been constructed after 01.01.2011, therefore, insofar as these buildings are concerned, such concurrence from the DTCP is required. Unless such concurrence is obtained and produced before the respondent by the petitioner for the purpose of buildings constructed for establishing the proposed school, it may not be justified to get such approval.



W.P.No.27482 of 2022

6. I have considered the rival submissions made by learned counsel appearing for parties and have perused the materials placed before this Court.

7. Insofar as the query Nos.1 and 2 are concerned, there can be no much quarrel that the documents pertaining to these queries have been produced by the petitioner and that should be verified by the respondents. Insofar as the query No.3 is concerned, what is required under the proceedings of the Director dated 05.11.2021 first shall be revealed and intimated by the respondents to the petitioner, based on which, a compliance report to that effect shall be filed by the petitioner shortly.

8. Insofar as the query No.4 is concerned, it is the definite claim of the petitioner that most of the buildings were constructed prior to 01.01.2011 and in fact, the plan approval given by the local authority i.e., the Town Panchayat for the buildings constructed by the petitioner of the year 2003 and 2009 have been produced both by the petitioner as well as the respondents and it was perused, where, such a permission was granted prior to 01.01.2011 and therefore, insofar as these buildings constructed prior to 01.01.2011 are concerned, no further concurrence from DTCP is required.



W.P.No.27482 of 2022

WEB COPY

9. If any such buildings were constructed prior to 01.01.2011, after getting necessary permission from the local authorities, such kind of buildings need not get any further concurrence from the DTCP.

10. At the same time, if the petitioner has made any further construction after 01.01.2011, in respect of these buildings, certainly, concurrence of the DTCP is required in view of Section 47 of the Tamil Nadu Town and Country Planning Act. Therefore, insofar as the constructions made by the petitioner, if any, after 01.01.2011, after getting such concurrence from the DTCP, necessary compliance shall be filed by the petitioner and if at all the petitioner does not want to utilize these buildings for the purpose of the proposed school, such a declaration to that effect shall be made to the respondents along with the compliance report.

11. If this compliance is made by the petitioner within a period, based on which, there can be no further impediment for the respondents to reconsider the issue and decide the plea raised by the petitioner for grant of approval for the proposed school.



W.P.No.27482 of 2022

12. In that view of the matter, this writ petition is disposed of with the

following orders:

That there shall be a direction to the respondents to reconsider the issue, for which, the impugned order is remitted back to the respondents, after getting compliance report in respect of all the four queries raised in the impugned order. In this regard, if at all any verification is to be undertaken by the respondents to have spot inspection, they can do so by giving advance intimation to the petitioner Institute / Management and after having conducted such an inspection, the needful as indicated above shall be undertaken and final orders shall be passed with regard to the plea of the petitioner for getting recognition for the proposed school of the petitioner Management and after the compliance of the petitioner, final orders shall be passed within a period of four weeks thereafter.



W.P.No.27482 of 2022

WEB COPY 13. With these directions, the writ petition is disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petitions are closed.

09.11.2022

Index: Yes/No

drm

Note: Issue order copy on 18.11.2022.

To

1. The Director of Elementary Education
DPI Campus
Chennai 600 006.
2. The Chief Educational Officer
Chengalpattu District.
3. The District Educational Officer
Maduranthagam, Chengalpattu District.
4. Block Educational Officer
Chithamoor, Chengalpattu District.
5. The Executive Officer
Idaikkazhinadu Town Panchayat, Chengalpattu District.



WEB COPY



W.P.No.27482 of 2022

R. SURESH KUMAR, J.

(drm)

W.P.No.27482 of 2022
and W.M.P.Nos.26706 & 26707 of 2022

09.11.2022