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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2022

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Writ Petition No.28530 of 2021

S.Partheeban

... Petitioner

vs.

1. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.
2. The Chief Educational Officer,
O/o. Chief Educational Office,
Collectorate Campus,
Salem - 636 001.
3. The District Educational Officer,
(Salem - Rural),
O/o. The District Educational Office,
Collectorate Campus,
Salem - 636 001.
4. The Block Educational Officer,
(Panamarathupatti Union),
Panamarathupatti,
Salem.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Certiorarified Mandamus, calling for the records of the impugned order of the 3rd Respondent in Ref.No.O.Mu.No.7431/Aa4/2021, dated 18.11.2021 and quash the same and consequently direct the Respondents to grant recognition of the Petitioner School by name 'Boston Nursery and Primary School' at Jari Kondalampatty, Salem, within the time limit stipulated by this Court.

For Petitioner : Mr.B.Kumarasamy

For Respondents : Mr.Stalin Abimanyu,
Additional Government Pleader



O R D E R

Petitioner has come up with the present Writ Petition seeking to quash the impugned order of the 3rd Respondent in Ref.No.O.Mu.No.7431/Aa4/2021, dated 18.11.2021 and for a consequential direction to the Respondents to grant recognition to the School run by him in the name of 'Boston Nursery and Primary School' at Jari Kondalampatty, Salem.

2. According to the Petitioner, he started a School viz. 'Boston Nursery and Primary School' in the year 2004 at Jari Kondalampatty, Salem for the purpose of imparting education to poor children in the said locality. In the said School, 250 students are studying and 11 qualified Teachers are working. It is further stated by the Petitioner that, the said School has sufficient classrooms, playground, laboratories, furniture and sanitary facilities as per the Nursery Code of 1991. Initially, the Petitioner submitted an Application in the prescribed format on 21.09.2005 enclosing all the requisite Certificates as required under Regulation 10 of the Nursery Code. As no order was passed, the Petitioner finally submitted an Application dated 11.05.2012 to the 3rd Respondent seeking temporary approval of the School run by him. However, no orders were passed on his Application.

3. In the meanwhile, the Petitioner received a letter dated 16.06.2014 from the District Elementary Educational Officer, Salem to send the proposal in a complete form. On 18.07.2014, he was informed that, since the proposal for approval was not sent completely, approval cannot be granted to the School. He also received a letter dated 18.07.2014 from the District Elementary Educational Officer, Salem, denying grant of approval for running a Primary School. On 19.07.2014, the District Elementary Educational Officer, Salem sent another letter denying grant of approval to the Petitioner to run a School, based on the Inspection Report of the Assistant Elementary Educational Officer. However, the Petitioner was shocked to receive an order dated 23.07.2014 alleging that, the School run by him was closed, since it is being run without approval.

4. It is stated by the Petitioner that, once again, he complied with all the queries of the 3rd Respondent and resubmitted the Application on 08.11.2021. Thereafter, the 3rd Respondent vide impugned proceedings dated 18.11.2021, returned the Petitioner's Application dated 08.11.2021. Challenging the same, the Petitioner is before this Court with the above Writ Petition.

5. Learned counsel for the Petitioner submitted that, it



would suffice if the 3rd Respondent is directed to consider the Petitioner's Application dated 08.11.2021 in accordance with law within a stipulated period.

6. Learned Additional Government Pleader appearing for the Respondents fairly submitted that, if the impugned order passed by the 3rd Respondent is set aside, the 3rd Respondent may be directed to consider the Petitioner's Application dated 08.11.2021, within a reasonable time.

7. Heard the learned counsel on either side and perused the material documents available on record.

8. It is seen that, the Petitioner had submitted Applications seeking approval of the School run by him to the Authorities concerned. However, the same were returned for want of requisite documents and counter signature of the Block Educational Officer. From the records, it is seen that, the Petitioner had re-submitted Approval Applications before the Authority concerned along with necessary documents. Finally, he submitted an Approval Application on 08.11.2021 with necessary documents to the 3rd Respondent. As the same was not considered, the Petitioner filed W.P.No.25200 of 2021 before this Court. When the Writ Petition was taken up for hearing, it was reported by the learned Government Advocate that, the Petitioner's Application dated 08.11.2021 was returned on 18.11.2021. Recording the submissions of the learned Government Advocate, the said Writ Petition was dismissed on 25.11.2021 with liberty to the Petitioner to work out his remedy in the manner known to law.

9. It is evident from the records that, the main reason for rejection of the Petitioner's Application is due to the fact that, the counter signature of the Block Educational Officer is not available. It is pertinent to point out that, there is no mandate for the counter signature of the Block Educational Officer by any statutory provision. Therefore, the rejection of the Petitioner's Application is per se unsustainable.

10. In the aforesaid circumstances, the impugned order dated 18.11.2021 passed by the 3rd Respondent herein is set aside. The Petitioner is directed to send a fresh Application to the 3rd Respondent herein, seeking approval of the School run by him along with requisite documents, thereby complying with all the deficiencies pointed out by the Authorities concerned, along with a copy of this order, within a period of two weeks from the date of receipt of a copy of this order. On receipt of the Application from the Petitioner, the 3rd Respondent shall consider the same in accordance with law and pass appropriate orders after affording an opportunity of hearing to the



Petitioner, within a period of four weeks thereafter.

The Writ Petition is disposed of with the above direction.
No costs.

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Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Director of Elementary Education,
DPI Campus, College Road, Chennai 600 006.
2. The Chief Educational Officer,
O/o. Chief Educational Office,
Collectorate Campus, Salem - 636 001.
3. The District Educational Officer,
(Salem - Rural),
O/o. The District Educational Office,
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4. The Block Educational Officer,
(Panamarathupatti Union),
Panamarathupatti, Salem.

+1cc to Mr.B.Kumarasamy, Advocate, S.R.No.2153

+1cc to Government Pleader S.R.No.2742

W.P.No.28530 of 2021

PCH(CO)
CT 09/02/2022