

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **26.07.2022**

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THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.17121 of 2013

and

M.P.(MD)No.1 of 2013

S.Indra

... Petitioner

Vs.

1.The Chief Educational Officer,
Office of the Chief Education Office,
Che.Va.Hr. Sec. School Campus,
V.E. Road, Tuticorin.

2.The District Elementary Educational Officer,
Office of the District Elementary Education Office,
S.R.Naidu Street,
Tuticorin.

3.The Assistant Elementary Educational Officer,
Office of the Assistant Elementary Education Office,
S.R.Naidu Street, Tuticorin.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned communication in O.Mu.No.2617/A4/2013, dated 30.09.2013 on the file of the District Elementary Educational Officer, the 2nd respondent herein for returning the approval application and proposals for Twinkle Nursery and Primary

School at 5B/141, Celseeni Colony, Tuticorin-8 for the period 2009-2010, 2010-2011 and 2011-2012 and quash the same and consequently, direct the second respondent to grant approval for the said school in the light of the G.O.Ms.No.270, Educational Department (x2) dated 22.10.2012.

For Petitioner : Mr.S.Siva Thilakar

For Respondents : Mr.V.Nirmalkumar
Government Advocate

ORDER

The present writ petition has been filed challenging the order passed by the second respondent herein, under which, the request of the petitioner for approval of the school was returned on the ground that the school building roof should be changed.

2.According to the learned counsel for the petitioner, the petitioner's trust had started a Nursery and Primary School in the name and style of Twinkle Nursery and Primary School at Thoothukudi. They have sought approval for the said school for the academic year 2009-10, 2010-11 and 2011-12 to the respondents and they have also submitted all the relevant documents obtained from the competent authorities. However, the second respondent herein under the impugned order, dated

30.09.2013 has returned the application for approval on the ground that the school has to change the asbestos roof into a concrete roof. The said order is under challenge in the present writ petition.

3.The learned counsel for the petitioner had submitted that G.O.Ms.No.270, Education Department (x2), dated 22.10.2012, there is no reference about the roof of the school building. Hence, according to the learned counsel for the petitioner, the education authorities cannot have any objection whatsoever with regard to the asbestos sheets roof of the school building. Hence, he prayed for setting aside the order of the second respondent.

4.Per contra, the learned Government Advocate for the second respondent had filed a counter contending that as per G.O.(2D)No.15, School Education, dated 06.03.2022, it was advised that the asbestos roof should be avoided, considering the health of the young children, who are studying in Nursery and Primary school. The learned counsel for the second respondent had further contended that the asbestos roof is likely to cause health hazards to the tender children and unless the said roof is changed, the approval cannot be granted for the said school.

5.I have carefully considered the submissions made on either side.

6.According to the learned counsel for the petitioner, he has obtained approval from all the competent authorities. There is no other legal impediment for the education authorities in granting approval to the school. The only defect that was pointed out in the impugned order is that the roof of the school has to be changed.

7.After going through the counter affidavit, this Court considers that the respondents education authorities were well within their powers in directing the school to change the asbestos roof into a concrete roof. This direction has been passed considering the health hazards to the young children, who are going to study in the Nursery and Primary School in the said petitioner's school.

8.Considering the above said facts, I do not find any merits in the above said writ petition. However, if the petitioner changes the roof to a concrete one, the said request of the petitioner shall be renewed before the education authorities.

9.With the above observations, the Writ Petition is closed. No costs. Consequently, connected miscellaneous petition is closed.

26.07.2022

Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR ,J.

sjj

Order made in
W.P(MD)No.17121 of 2013

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