



W.P.(MD)No.22864 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 14.10.2022

CORAM

THE HONOURABLE Mrs.JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition (MD) No.22864 of 2022
and W.M.P(MD).No.16983 of 2022

Kaviyan School
Rep., by its Correspondent
C.Deenathayalapandian

.. Petitioner

Versus

1.The Director of Matriculation Schools,
Directorate of Matriculation Schools,
DPI Campus, Chennai.

2.The District Education Officer,
Dindigul District, Dindigul.

.. Respondents

Prayer :- Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the second respondent in A.Thi.Mu.No.2648/A4/2022 dated 19.09.2022 and quash the same as illegal and consequently to direct the respondents to grant approval to the petitioner school in accordance with the order of the Division Bench of this Court in W.A(MD).No.911 of 2015 dated 18.08.2015 as clarified in Cont.P.No.1391 of 2015 dated 30.11.2015 within a period that may be stipulated by this Court.

For Petitioner

:

Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates



W.P.(MD)No.22864 of 2022

WEB COPY

For Respondents

:

Mr.V.Om.Praksh
Government Advocate

ORDER

The petitioner has filed this Writ Petition seeking for issuance of a Writ of Certiorarified Mandamus, to quash the impugned proceedings of the second respondent in A.Thi.Mu.No.2648/A4/2022 dated 19.09.2022 and consequently, to direct the respondents to grant approval to the petitioner's school in accordance with the order of the Hon'ble Division Bench of this Court in W.A(MD).No.911 of 2015 dated 18.08.2015 as clarified in Cont.P(MD)No.1391 of 2015 dated 30.11.2015 within a period that may be stipulated by this Court.

2. One Jegamathi Educational Trust, a public Educational and Charitable Trust, had acquired 14.88 acres of land at Indira Nagar, Maliyakoundanpatti under a 30 years lease, on 07.09.2006, for construction of a School (petitioner School). They submitted an application before the Malaiyakoundanpatti Village Panchayat seeking approval of the building plan for construction of ground floor of the School building and the same was granted by the President of Malayagoundenpatti Panchayat in the year 2009 and construction of ground floor was completed. Thereafter, the petitioner



W.P.(MD)No.22864 of 2022

school made an application to the Educational Authorities seeking permission to commence classes from LKG to VI Standards, on 28.08.2009. On 04.01.2010, the Director of Matriculation Schools, the first respondent herein, granted permission to the petitioner school for commencement of Classes LKG to VI standards, for three years, from 01.06.2009 to 31.05.2012. On 02.03.2012, the petitioner school submitted an application for renewal of recognition for LKG to VI standards, with another application seeking permission to open additional classes from VII to IX standards. Since no order was forthcoming, the petitioner school filed W.P(MD).No.5225 of 2013 before this Court seeking for a direction to the Educational Authorities to grant permanent recognition for classes LKG to VI standard and also permission for opening of additional classes from standard VII to IX. On 26.04.2013, this Court granted interim direction to the authorities to renew the temporary recognition, pursuant to which, on 07.06.2013, the authorities granted temporary recognition for classes LKG to VI standards, from 01.06.2012 to 06.05.2015.

3. In the year 2013, the President of Malayagoundanpatti Panchayat approved the building plan for construction of additional first floor of the school building and on the strength of which, construction was completed in 2014. Pursuant to the direction of this Court, dated 28.02.2014 in



W.P.(MD)No.22864 of 2022

W.P(MD).No.5225 of 2013 to consider the application of the petitioner school for permanent recognition, the Educational Authority inspected the petitioner school on 08.04.2014 and granted permission to open additional classes from VII to X standard. Thereafter, on 12.05.2014, the petitioner school submitted a letter to the first respondent seeking permanent recognition, which was followed by a reminder on 29.05.2014. On 18.11.2014, the first respondent passed the order, among other things, requiring the petitioner school to obtain building plan approval from the Directorate of Town and Country Planning, to grant recognition. Challenging the same, the petitioner school filed W.P(MD).No.20329 of 2014. This Court, by order dated 06.04.2015, allowed the writ petition, wherein it was held that the Village President is the Executive authority under the Tamil Nadu Panchayats Buildings Rues, 1997, to grant approval for construction, only consultation with the concerned Joint Director or Deputy Director of Town and Country Planning. It is an internal arrangement between the Panchayat President and the Joint Director or Deputy Director of Town and Country Planning, in which, the petitioner school has no role to play and as such, the approval from the Directorate of Town and Country Planning is not mandatory. Challenging the order made in W.P(MD).No.20329 of 2014, the first respondent preferred an appeal in W.A(MD)No.911 of 2015.



W.P.(MD)No.22864 of 2022

4. The Hon'ble Division Bench, by order dated 18.08.2015, disposed of the said appeal. Pursuant to the said order, the first respondent has passed order dated 15.10.2015 granting temporary recognition to the petitioner School up to 31.05.2016 subject to various conditions. All the conditions listed in the order are usual conditions, over which, the petitioner school has no quarrel. But, one condition that compelled the petitioner school to file a contempt petition is to the effect that the question of renewal of temporary recognition next year would depend upon a clarification issued by the Directorate of Town and Country Planning as to whether the building plan approval was granted to the petitioner school after consultation with the Directorate. The Hon'ble Division Bench, by order dated 30.11.2015, closed the Contempt Petition with the following observations:

“7.Once the Panchayat has clarified that the permission was granted as per the said rule, it cannot be expected that the petitioner should get further conformation from the Directorate of Town and Country Planning.

8.Therefore, we clarify even while closing the contempt petition that unless and until the Directorate of Town and Country Planning particularly informs the Director of Matriculation School that Rule 25 extracted above was not followed, the respondent shall not deny the renewal of recognition for the next year. Of course, this will be subject to the compliance with the other condition for the grant of renewal.”



W.P.(MD)No.22864 of 2022

5. After closing the contempt petition, the first respondent has given approval to the petitioner school till 31.05.2022 without any obstruction. Again, the petitioner school made an application for renewal of the temporary approval granted to the school for the upcoming year, but the second respondent has passed the impugned order dated 19.09.2022 returning the proposal of renewal of recognition of the petitioner school on the ground that the petitioner school has not applied for approval before the Town and Country Planning Authority. It is a clear act of contempt of the order passed by this Court, dated 30.11.2015 in Cont.P(MD).No.1391 of 2015.

6. The learned counsel for the petitioner submitted that the issue is no longer *res integra*. In this regard, he relied on the judgment reported in **2018 4 CTC 129** in the case of ***Tamil Nadu Unaided Polytechnic Management Association Vs., State of Tamil Nadu and others***, wherein it was held that there shall be only one window, where applications for construction, alteration of public buildings in the Panchayat must be made and that will be the Executive Authority of the Panchayat and there is no need for the person to apply for permission of a construction within the Panchayat to the Town Planning Authority under Section 49 of the Tamil Nadu Town and Country Planning Act. Therefore, the order impugned in this petition is illegal and unsustainable in law. Therefore, he wants interference of this Court.



W.P.(MD)No.22864 of 2022

WEB COPY 7. Heard the learned Government Advocate appearing for the respondents.

8. It is seen from the order of contempt petition that under the Right to Information Act, the President of Panchayat was asked the following question:

“1. Whether you had granted approval to Kaviyan School, Indira Nagar, Malayakoundanpatti, Ammayanaickanur, Kodai Road Post, Nilakottai Taluk, Dindigul District for the construction of a School building comprising ground + first floor measuring about 17,000 ft per floor without consulting the concerned Joint Director of Deputy Director of Town and Country Planning.”

9. The reply given by the President of the Panchayat on 20.10.2015 is as follows:

“We hereby confirm that, we had granted approval to Kaviyan School, Indira Nagar, Malayagoundanpatti, Ammayanaickanur, Kodai Road Post, Nilakottai Taluk, Dindigul District for the construction of a school building comprising ground + first floor + second floor measuring about Seventeen Thousand Square Feet (17,000 sq.ft) in each floor in accordance to Rule 25 of the Tamil Nadu Panchayat Building Rules, 1997.”



W.P.(MD)No.22864 of 2022

10. Rule 25 of the Tamil Nadu Panchayat Building Rules reads as follows:

“25.Multi-storeyed and public buildings.--Every person intending to construct, reconstruct, add to or alter any public building other than Government building shall follow the provisions of the Multi-storeyed and public building Rules, 1973 issued under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920):

Provided that the executive authority shall not grant approval for construction, reconstruction addition or alteration of any such building without consulting the concerned Joint Director or Deputy Director of Town and Country Planning.”

11. In view of the above, the petitioner school was granted approval by the executive authority only after consultation with the concerned Joint Director or Deputy Director of Town and Country Planning. Hence, the order impugned passed by the second respondent/District Educational Officer on the ground that the petitioner school has not applied for approval before the Town and Country Planning Authority, is not sustainable. Hence, it is liable to be quashed.



W.P.(MD)No.22864 of 2022

12. Accordingly, this writ petition is allowed and the order impugned in this writ petition made in A.Thi.Mu.No.2648/A4/2022 dated 19.09.2022 passed by the second respondent is hereby quashed. The petitioner school is directed to resubmit the said application before the District Educational Officer, Dindigul, along with the relevant documents as well as the copy of this order and the District Educational Officer, Dindigul, shall consider the same and pass appropriate orders within a period of eight (8) weeks thereof. No costs. Consequently, connected Miscellaneous Petition is closed.

14.10.2022

Index : Yes/No
Rmk

To

1. The Director of Matriculation Schools,
Directorate of Matriculation Schools,
DPI Campus, Chennai.
2. The District Education Officer,
Dindigul District, Dindigul.



WEB COPY



W.P.(MD)No.22864 of 2022

V.BHAVANI SUBBAROYAN, J.

Rmk

Order made in
W.P.(MD) No.22864 of 2022

14.10.2022