



W.P(MD).No.9823 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 30.11.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.9823 of 2015

and

M.P(MD) Nos.1 and 2 of 2015

Nachiappaswamigal Polytechnic College,
Represented by its Manager M.Pazhani
Kovilur,
Karaikudi, Sivagangai District.

... Petitioner

-VS-

1. The Commissioner,
Directorate of Town and Country Planning,
Anna Salai, Chennai – 600 002.
2. The Deputy Director,
Office of the Deputy Director of
Town and Country Planning,
Sivagangai Region,
Sivagnagai.
3. The President,
Koviloor Panchayat,
Karaikudi Taluk,
Sivagangai District.

.... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for the records in respect of the impugned order issued by the second respondent vide his proceedings in Na.Ka.No.1876/2013/CeMa-3, dated 18.03.2015 and quash the same.

For Petitioner : Mr.K.Govindarajan
For Mr.E.Vijay Anand

For Respondents : Mr.M.Lingadurai
Special Government Pleader

ORDER

The present Writ Petition has been filed challenging the order passed by the second respondent herein, issuing notice under Sections 56 and 57 of the Tamil Nadu Town and Country Planning Act 1971, on the ground that the petitioner's College has not obtained the building plan permission for putting up the construction as contemplated under Section 47-A of Tamil Nadu Town and Country Planning Act, 1971.

2. The learned Counsel appearing for the petitioner pointed out that the said Section 47-A of the Act was introduced under the Tamil Nadu Act 46 of 2010, with effect from 01.11.2011. However, the petitioner has



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obtained building plan permission from the third respondent herein on 04.03.2009 and he has completed the construction before 01.01.2011. Hence, the petitioner cannot be again called upon to seek building plan approval from the Town and Country Planning Authorities, in view of the introduction of under Section 47-A of the Act.

3. The learned Counsel for the petitioner relied upon the judgment of this Court in ***W.P.Nos.24909 of 2022 and batch of writ petitions (All India Private School Legal Protection Society vs- The State of Tamil Nadu, represented by its Principal Secretary to Government, School Education Department and others***, which was decided by an order, dated 28.10.2022. Paragraph No.22 of the said order, is extracted hereunder:

“22. In that view of the matter, this Court is inclined to dispose of these writ petitions with the following order:

- That the members of the petitioners herein, who are the education Institutions/ Schools or its Managements if made any construction for the purpose of running their educational institutions or schools*



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after getting approval or without approval prior to 01.01.2011, the date on which Section 47-A of the Act has come into force, need not make any fresh application to the planning or building authorities for getting approval. But at the same time, if they made fresh construction after 01.01.2011 or additional construction, as the case may be, for which, if there is no approval obtained by them from the competent authority under the said act, those institutions and its Managements shall make an application to the competent authority i.e. planning or building approval authorities under the said Act and such proof shall be filed before the educational authorities, who are competent to consider the request of the individual schools or institutions like the members of the petitioners to consider the extension of recognition or approval of their school or educational institutions beyond 31.05.2022.

- *If any of such institutions has not at all made any construction after 01.01.2011, a declaration to that effect in a format by way of an affidavit shall be given by each of the*



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institutions to the educational authorities along with the application, that they have not put up any fresh or additional construction after 01.01.2011 for the purpose of running their educational institutions.

- *If such an application is made by the institutions their application for extension of approval or recognition, as the case may be, can be considered and decided by the competent authorities of the education department on merits and in accordance with law within a reasonable time because it relates to the current academic year i.e., 2022-2023”.*

4. In view of the judgment of this Court, if the petitioner College has put up any construction, which is prior to 01.01.2011, after obtaining permission from the local body, the petitioner's College cannot again be directed to obtain permission for the second time from the authorities under the Town and Country Planning Act.



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5. In view of the said ratio made out by this Court, the order impugned in the writ petition is set aside. This Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

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(3/4)

Index : Yes / No
Internet : Yes / No
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To

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R.VIJAYAKUMAR,J.

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