



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED :11.10.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. (MD)No.23406 of 2022

and

W.M.P. (MD) .Nos.17485 & 17486 of 2022

A.Kani Mohamed
The President,
Ariyakudi Limra Trust,
948, Sannathi Street,
Ariyakudi,
Sivagangai District

... Petitioner

Vs.

1.The Executive Officer,
Ariyakudi Village Panchayat,
Sivagangai District.

2.The Tamil Nadu Waqf Board,
Rep by its Chief Executive Officer,
Jaffar Syrang Street,
Vallalseethakathi Nagar,
Chennai.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the impugned order of the 1st respondent in his proceedings dated 03.10.2022 and quash the same as illegal and consequently forbear the respondents from interfering with the petitioner's right to establish and administer an Arabic School in the petitioner's property in Survey No.290/6, Ariyakudi Village, Karaikudi Taluk, Sivagangai District.

For Petitioner	: Mr.M.Mahaboob Athiff
For Respondents	: Mr.T.Amjadkhan Government Advocate for R1 Mr.G.Chandrasekar Standing Counsel for R2

O R D E R

This Writ Petition is filed to quash the impugned order of the 1st respondent in his proceedings dated 03.10.2022 and consequently forbear the respondents from interfering with the petitioner's right to establish and administer an Arabic School in



the petitioner's property in Survey No.290/6, Ariyakudi Karaikudi Taluk, Sivagangai District.

2. The petitioner is the President of Ariyakudi Limra Trust, which is a Charitable Trust formed to establish Educational Institutions and Hospitals for the welfare of general public. In furtherance of the object of the Trust to establish Educational Institutions, the petitioner Trust intended to establish an Arabic School at Ariyakudi Village, Sivagangai. Donations were obtained for the purpose of construction of the School, for the purpose of educating the children belonging to the community. The petitioner approached the 1st respondent/the Executive Officer, seeking planning permission for construction of the said Arabic School. The 1st respondent had accorded planning approval, vide approval No.109/2020-21, dated 13.02.2021, for construction of Arabic School. Pursuant to the above approval, the petitioner mobilized funds and completed the construction in furtherance of the planning permission accorded.

3. While so, the first respondent, had without issuance of any notice and in violation of principles of natural justice, passed the impugned order dated 03.10.2022 on the premise that a Masjid is being constructed. The impugned order suggests that the petitioner must have obtained prior permission before constructing the Masjid. The Tamil Nadu Panchayat Building Rules, 1997, vide Rule 4(3) provides that, no site shall be used for construction of building intended for public worship or religious purpose without prior approval of the District Collector.

4. Mr.T.Amjadkhan, learned Government Advocate appearing for the first respondent would submit that the petitioner had constructed the building for public worship and other religious purposes. Further, he would submit that the said building would be used for purposes other than running of an Arabic School.

5. Mr.Mahaboob Athiff, learned counsel for the petitioner would submit that the impugned order is passed on the basis of apprehension inasmuch as the building is yet to be used for any purpose be it Arabic School or Masjid. He would submit that the impugned order is without basis and undertakes that the building would not be used for any purpose other than running of the Arabic School.

6. Recording the undertaking given by the learned counsel for the petitioner that the building would not be used for any purpose other than running of the Arabic School, for which planning permission was accorded, this Court is of the view that the impugned order is liable to be set aside. However, liberty is granted to the Respondent to proceed against the petitioner in accordance with law, if they find, as a matter of fact, that the petitioner is using the premises for unauthorized activities.



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7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

/11/2022

Sub Assistant Registrar(CS)

sbn

To

1.The Executive Officer,
Ariyakudi Village Panchayat,
Sivagangai District.

+1 CC to M/s.G.CHANDRASEKAR, Advocate (SR-49010[F] dated 12/10/2022)

+2 CC to M/s.M.MAHABOOB ATHIFF, Advocate (SR-48883[F] dated 12/10/2022)

+1 CC to M/s.SPL.GP (SR-49267[F] dated 13/10/2022)

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AMS (31.10.2022) 3P 6C