



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2022

**CORAM**

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

**W.P. (MD)No.3281 of 2017**

**and**

**W.M.P (MD)Nos.2636, 18264 of 2017**

S.A.V.Higher Secondary School,  
Represented by its Secretary,  
S.R.S.Balaji,  
Chatram Street,  
Near 2<sup>nd</sup> Gate,  
Tuticorin - 628 002.

... Petitioner

Vs

1.The State represented by  
The Secretary to the Government,  
Department of Revenue,  
Secretariat,  
Chennai - 9.

2.The District Collector,  
Collectorate,  
Tuticorin District.

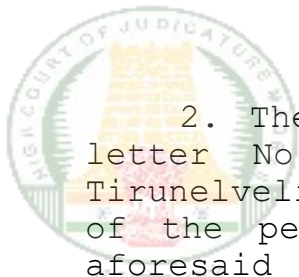
... Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order in G.O(Ms)No.34 dated 06.02.2017 on the file of the first respondent and quash the same as illegal, since the Government has alienated the land to be used as Play Ground to the Petitioner's School, vide G.O(Ms)No.1764, Revenue, dated 12.08.1942 and the said grant of land is in existence till date.

For Petitioner : Mr.T.Lajapathy Roy  
For Respondents : Mr.K.Baskara Pandian  
Special Government Pleader

**ORDER**

Heard the learned counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.



2. The petitioner is an aided Higher Secondary School. Vide letter No.1898/42 dated 07.04.1942, the District Collector of Tirunelveli, alienated the petition mentioned playground in favour of the petitioner free of charge. By the impugned order, the aforesaid assignment stood cancelled and the playground was sought to be resumed. Proposing to resume the same, the Government issued a show cause notice dated 17.03.2011. Questioning the same, the petitioner filed W.P(MD)No.5296 of 2011. The said writ petition was disposed of by directing the petitioner to offer their explanation. The first respondent after going through the same, rejected the petitioner's explanation and passed the impugned order bearing G.O (Ms)No.34 Revenue Department dated 06.02.2017 for resuming the playground. Challenging the same, the writ petition came to be filed.

3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and submitted that the impugned Government Order has to be set aside.

4. Per contra, the learned Special Government Pleader submitted that no case has been made out for interference.

5. I carefully considered the rival contentions and went through the materials on record.

6. The respondent has proceeded on the premise that contrary to the condition set out in the assignment order, a construction had been allowed to be put up by the petitioner. The petitioner has categorically stated that in order to ensure that the play ground is not trespassed, the petitioner appointed a watchman and the said watchman put up a temporary shed to stay therein. In my view, this will not amount to breach of the assignment condition. At the same time, I am not inclined to interfere with the impugned resumption order, because the order of alienation, dated 07.04.1942 itself provides that the Government may resume the land wholly or in part with building thereon if in the opinion of the Government, the land is required for a public purpose. In the impugned Government Order it has been stated that the school is located at the distance of 1.5 Kilometer away from the playground and that the Government can very well use the playground for appropriate purpose. The Government is proposing to develop the playground into a professional sports ground. Since such public purpose has been set out in the impugned Government Order, I have to necessarily sustain the same

7. At the same time, the rights of the petitioner cannot be forgotten. For more than eight years, the playground in question has been recognized as that of the writ petitioner's School. The writ petitioner in the affidavit had stated that the ground is being



used regularly for the benefit of the students and that they are also regularly holding tournaments and events. The respondents will permit the petitioner to continue to use the playground for their usual purposes. The petitioner's school is entitled to use the playground in question for their Physical Education classes. They can also conduct their school related events in the playground. Subject to this, I sustain the order resuming the playground by the Government. The Government of Tamil Nadu passed Tamil Nadu Parks, Play-Fields and Open Spaces (Prevention and Regulation) Act, 1959. The intention of the statute is evident. Once a place has been earmarked as a playground it will have to be maintained forever. Of course, on account of the implementation of Smart City Project, the playground in question is used to park the public buses. But then, this temporary arrangement cannot go on indefinitely. It is stated that the Smart City Project will be completed within about 12 months. Thereafter, the playground in question has to be maintained as a playground forever. The respondents will not permit any kind of encroachment to come up thereon. The petitioner's counsel alleges that at present, a number of shops have been allowed to be put up. These shops will have to be removed at the end of the 12 months' period. Since the rights of the petitioner that are obtaining as on date have been more than protected, the petitioner also cannot have any grievance.

8. With these clarifications and directions, the writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(Cs-II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

Mga

To

1.The Secretary to the Government,  
Department of Revenue,  
Secretariat,  
Chennai - 9.

2.The District Collector,  
Collectorate,  
Tuticorin District.



+1 CC to M/s.T.LAJAPATHI ROY, Advocate ( SR-26029[F] dated 16/06/2022 )

+1 CC to M/s.SPL.GP ( SR-26107[F] dated 16/06/2022 )

W.P. (MD) No.3281 of 2017  
14.06.2022

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