



WEB COPY



W.P.No.6331 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.06.2023

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

W.P.No.6331 of 2022

and

W.M.P.No.17081 of 2023

M/s.Vijay Educational Charitable Trust,
Rep. by V.Balachandran,
S/o.Venkatapathy Gounder,
19B, Ellaiyamman Koil St.,
Kondareddipalayam Village,
Poonichampat Madura,
Mannadipet Commune,
Puducherry.

... Petitioner

Vs.

- 1.The Secretary to Government,
Higher and Technical Education,
Government of Puducherry,
Puducherry.
- 2.The Under Secretary to Government,
Higher and Technical Education,
Government of Puducherry,
Puducherry.
- 3.The Director,
Directorate Higher and Technical Education,
Government of Puducherry,
Lawspet,
Puducherry – 8.



W.P.No.6331 of 2022

4.The Superintendent,
Directorate Higher and Technical Education,
Government of Puducherry,
Lawspet,
Puducherry - 8.

5.Usha Nandini

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the respondents 1 to 4 to grant No Objection Certificate to the petitioner trust for starting Vijay Arts and Science College, KR Palayam, Thirukanoor for the academic year 2022 – 23.

For Petitioner : Mr.R.Rajarajan
For Respondents : Mr.S.Syed Mustafa
Special Government Pleader
(Puducherry) [R1 to R4]
Mr.J.Anthony Jesus [R5]

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, directing the respondents 1 to 4 to grant No Objection Certificate to the petitioner trust for starting Vijay Arts and Science College, KR Palayam, Thirukanoor for the academic year 2022 – 23.



W.P.No.6331 of 2022

2. W.M.P.No.17081 of 2023 has been filed seeking to direct the respondents 1 to 4 to grant No Objection Certificate to the petitioner trust for starting Vijay Arts and Science College, KR Palayam, Thirukanoor for the academic year 2023 – 24 pending disposal of the writ petition.

3. The case of the petitioner is that, the petitioner trust was constituted with the noble object to promote the educational and charitable activities for the benefit of the public. The trust had proposed to set up an Arts and Science College at Thirukkanur, Puducherry, for which, they made an application before the respondents 1 to 4 on 16.07.2018 seeking permission to establish the college in the land leased out to the petitioner trust on 16.07.2018. While so, the fifth respondent had filed a false and frivolous suit in O.S.No.147 of 2013 seeking for the relief of partition against the petitioner and others on the file of the learned II Additional District Judge, Puducherry. When the petitioner's application was under the process, the fifth respondent made objection that the suit for partition is pending. The respondents 1 to 4 by their letter dated 30.07.2021, informed the petitioner that, due to the pendency of the said suit, the request of the petitioner trust for grant of No Objection Certificate cannot be considered. Thereafter, the



W.P.No.6331 of 2022

WEB COPY

said suit was dismissed on 30.11.2021 and the petitioner had also communicated the decree and judgment passed in the said suit to the respondents 1 to 4. In the meanwhile, the fifth respondent filed another suit in O.S.No.1035 of 2019 on the file of Principal District Munsiff, Puducherry seeking declaration to set aside the settlement deeds dated 19.07.2005, 09.07.2018 and 11.07.2013 executed in favour of the petitioner and others. Hence, the above Writ Petition is filed seeking for a direction to the respondents 1 to 4 to grant No Objection Certificate to the petitioner.

4. The learned counsel for the petitioner submits that, the respondents 1 to 4 refused to grant No Objection Certificate to the petitioner trust to start College on the ground that, there are civil suits pending between the petitioner and the fifth respondent. However, there are two suits pending between them, one is for partition and the another one is to set aside the settlement deeds executed by their father in the name of the petitioner. The suit for partition is dismissed and suit to set aside the settlement deeds is pending. He further submits that, the mere pendency of the civil suits, is not a bar for considering the application to grant No Objection Certificate to the eligible applicants. Accordingly, he prays for appropriate orders.



W.P.No.6331 of 2022

WEB COPY

5. The learned Special Government Pleader (Puducherry) appearing for the respondents 1 to 4 submits that, already in the Syndicate meeting, a resolution has been passed in favour of the petitioner for issuance of No Objection Certificate on condition that the No Objection Certificate is subject to the result of the civil suits pending between the parties.

6. The learned counsel appearing for the fifth respondent submits that as against the dismissal of the suit in O.S.No.147 of 2013, the fifth respondent has preferred an appeal before this Court and the same is pending.

7. In view of the aforesaid submissions, this Court, without going into the merits of the case, directs the respondents 1 to 4 to issue No Objection to the petitioner trust for the Academic Year 2023 - 2024, since the Academic Year 2022 - 2023 has already been ended. However, the No Objection Certificate to be issued by the respondents 1 to 4 is subject to the result of the civil suit pending between the parties.



W.P.No.6331 of 2022

WEB COPY

8. Accordingly, the Writ Petition is disposed of and the W.M.P.No.17081 of 2023 is ordered with the above terms. No costs.

20.06.2023

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation Case : Yes / No

sp

To

- 1.The Secretary to Government,
Higher and Technical Education,
Government of Puducherry,
Puducherry.
- 2.The Under Secretary to Government,
Higher and Technical Education,
Government of Puducherry,
Puducherry.
- 3.The Director,
Directorate Higher and Technical Education,
Government of Puducherry,
Lawspet,
Puducherry – 8.
- 4.The Superintendent,
Directorate Higher and Technical Education,
Government of Puducherry,
Lawspet,
Puducherry - 8.



WEB COPY



W.P.No.6331 of 2022

M.DHANDAPANI, J.

sp

W.P.No.6331 of 2022
and
W.M.P.No.17081 of 2023

20.06.2023