



Writ Petition No.6790 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 3/3/2023

C O R A M

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Writ Petition No.6790 of 2023

a n d

W.M.P.Nos.6886 and 6888 of 2023

V.S.B.Educational Trust
rep. By its Trustee
204 Dharapuram Road
Kangayam
Erode District 638 701.

...

Petitioner

Vs

1. The State of Tamil Nadu
rep. By its Secretary
Town and Country Planning
Fort St. George
Chennai 600 009.
2. The Director
Town and Country Planning
II, III and IV Floor
C & E Market Road, Koyambedu
Chennai 600 107.
3. The Deputy Director
Town and Country Planning
Coimbatore Region
Corporation Shopping Complex, II Floor
Dr. Nanjappa Road
Coimbatore 18.



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4. The President
Solavampalayam Panchayat
Solavampalayam
Kinathukadavu 642 109. ... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of certiorarified mandamus to call for the records of the second respondent relating to his proceedings in Na.Ka.No.72/2023/TCP3 dated 24/1/2023, quash the same and direct the respondents to grant planning permission to the petitioner for additional constructions without insisting on the petitioner gifting the OSR land to the fourth respondent.

For Petitioner	...	Mrs.Hema Sampath Senior Counsel for Ms.R.Meenal
For respondents	...	Mr.K.Karthick Jeganath Government Advocate for R.R.1 to 3.
		Mr.T.K.Saravanan Government Advocate for R.4.

ORDER

This writ petition has been filed to quash the Proceeding, dated 24/1/2023, issued by the second respondent, in Na.Ka.No.72/2023/TCP3,



dated 24/1/2023, and direct the respondents to grant planning permission to the petitioner for additional constructions without insisting on the petitioner gifting the OSR land to the fourth respondent.

2. Brief facts which are necessary for the disposal of the writ petition are as follows:-

The petitioner is a recognised self financing College, situate in a Panchayat area and it has made several applications for planning permission for additional constructions.

3. The main grievance of the petitioner is that though this Court has repeatedly held that OSR space need not be gifted to the local body, but can be kept as open to the sky, the authorities keep on insisting on the gift of this space as a precondition for granting planning approval. Hence the petitioner has come forward with the instant writ petition.

4. Heard Mrs.Hema Sampath, learned Senior Counsel for the petitioner.



5. Mr.K.Karthick Jeganath, learned Government Advocate takes notice for the respondents 1 to 3 and Mr.T.K.Saravanan, learned Government Advocate takes notice for the fourth respondent.

6. The learned Senior Counsel appearing for the petitioner submitted that the Open Space Reservation shall be earmarked and kept open to sky without any construction with the condition that the Open Space Reservation area should be utilized only as a park and not as a playground by the concerned institutions. Learned Senior Counsel further submitted that the second respondent, without considering G.O.Ms.No.161, Housing and Urban Development (UD 4 (3) Department, dated 26/6/2013, passed the impugned order.

7. It would be necessary to extract relevant clause from G.O.Ms.No.161, Housing and Urban Development (UD4 (3) Department dated 26/6/2013.

“In respect of educational institutions for whom the Open Space Reservation Regulation is applicable, the Open Space Reservation shall be

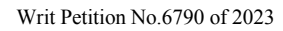


earmarked and kept open to sky without any construction with the condition that the Open Space Reservation are should be utilized only as a park and not as a playground by the concerned institutions. The guideline value should not be collected in lieu of area in such cases.”

8. Mr.K.Karthick Jeganath, learned Government Advocate appearing for the respondents 1 to 3 submitted that the matter may be remitted back to the second respondent for fresh consideration.

9. In view of the above, this Court is of the view that in so far as the educational institutions are concerned, Open Space Reservation shall be earmarked and kept open to sky without any construction with the condition that the Open Space Reservation area should be utilized only as a park and not as a playground by the concerned institutions.

10. Accordingly, this writ petition is allowed and impugned Proceeding, dated 24/1/2023, passed by the second respondent, in Na.Ka.No.72/2023/TCP3, is quashed and the matter is remitted back to the



No costs. Consequently, the connected Miscellaneous Petitions are closed.

Index : Yes / No
Internet: Yes
Speaking/non speaking order
Neutral Citation: Yes/No

mvs.



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