



WEB COPY



W.P. No.3753 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HON'BLE MR. JUSTICE M.DHANDAPANI

W.P. No.3753 of 2018

and

W.M.P. Nos.4580 to 4582 of 2018

M/s.Vidya Nethrra Educational Trust,
Rep. By its Chairman,
Dr. K. Balasundaram

...Petitioner

VS.

1. The Government of Tamil Nadu,
Rep. by Secretary to Government,
Housing and Urban Development Department,
Fort. St. George, Secretariat,
Chennai – 600 009.

2. The Commissioner,
Tamil Nadu Town and Country Planning,
Chennai.

3. The Joint Director,
Tamil Nadu Town and Country Planning,
Coimbatore Zone,
Corporation Shopping Complex,
Dr. Nanjappa Salai,
Coimbatore – 18.

4. The Director of Matriculation Schools,
DPI Complex,
Nungambakkam,
Chennai – 600 034. *

... Respondents

* Impleaded as per order dated 28.02.2018
in W.M.P. No.5238 of 2018.



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for records of the 1st respondent in Government Order in G.O. Ms. No.135 Housing and Urban Development (SC1-2) Department, dated 21.07.2017 and consequential proceedings of the 3rd respondent letter in Na.Ka. No.3259/2016 KOMA3, dated 14.11.2017 and quash the same insofar as it relates to demand for shelter fee and direct the 3rd respondent to grant building plan approval to the petitioner for construction of students hostel and mess block in its land comprised in S.F. No.364, 365/1, 366, 373/2, 374/1,2,3, in the Vidya Nethrra Higher Secondary School campus, Gomangalampudhur, Pollachi, without insisting the payment of shelter fee.

For petitioner : Ms.R. Meenal

For respondents : Mr. M. Alagu Goutham
Government Advocate.

ORDER

This writ petition has been filed to quash G.O. Ms. No.135 Housing and Urban Development (SC1-2) Department, dated 21.07.2017 insofar as, it relates to the demand of shelter fee is concerned and consequently, direct the third respondent to grant building plan approval to the petitioner for construction of students hostel and mess block without insisting the payment of shelter fee.



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2. The case of the petitioner is that their Trust is running a school in the name of Vidya Nethrra Higher Secondary School at Gomangalampudhur, Pollachi. It is proposed to expand the building infrastructure and for the same, the petitioner Trust made an application before the 3rd respondent seeking building plan approval for construction of Boys & Girls hostel block and students mess in the lands to an extent of 8050 square metre in S.F. No.364, 365/1, 366, 373/2, 374/1,2, 3 in the said campus. In response to the same, the 3rd respondent vide his letter dated 14.11.2017 called upon the petitioner to remit a sum of Rs.28,57,600/- towards “Shelter Fund” in favour of the Government, wherein, they have mentioned about the impugned G.O. No.135. Subsequent to which, the petitioner has remitted the requisite payment and awaited for building plan approval. Aggrieved by the impugned G.O. No.135 as stated supra with regard to imposition of shelter fee, the present writ petition has been filed.

3. The learned counsel for the petitioner submits that already the petitioner Trust is facing huge financial burden. That apart imposition of shelter fee, that too, when there is no law enacted by the Government for the same, wholly is unsustainable and illegal and hence, he prays for quashment of the said G.O. as well as for appropriate directions.



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4. The learned Government Advocate appearing for the respondents brought to the notice of this Court that subsequent to filing of this writ petition amendments have been made to the Town and Country Planning Act, 1971, by Act No.14 of 2018, by virtue of inserting new Sections 63-D and 63-E and the validation has been inserted in Section 64-4 giving retrospective effect for collection of shelter fees and therefore, the ground raised in this writ petition cannot be entertained. He also submitted that subsequent to amendment to the Act No.14 of 2018, the same is notified in Tamil Nadu Government Gazette No.46 dated 31.01.2018. Hence, he prays for dismissal of this writ petition.

5. Heard the learned counsel on both sides and perused the materials placed on record.

6. Amendment to Act No.14 of 2018 has been published in the Tamil Nadu Government Gazette dated 31.01.2018 and subsequent notifications have also been published. Therefore, the contention raised by the learned counsel for the petitioner cannot be sustained. Therefore, the relief sought by the petitioner cannot be granted and accordingly, the writ petition stands dismissed. The petitioner has to challenge Act 14 of



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2018, if so advised. No costs. Consequently, connected Miscellaneous

Petitions are closed.

08.03.2023

Index: Yes/No

Internet: Yes/No

Speaking Order/Non-Speaking Order

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To

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