



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.06.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18693 of 2023
and W.M.P No.17935 of 2023

S.Kalaiselvam

Petitioner

VS.

- 1.The District Collector,
Salem,
Salem District.
- 2.The Assistant Director,
(Municipalities/Town Panchayat)
Collector Office Campus,
Salem, Salem District.
- 3.The Block Development Officer,
Village and Town Panchayat,
Omalur,
Omalur Taluk,
Salem District.
- 4.The Tahsildar,
Omalur,
Omalur Taluk,
Salem District.
- 5.The Administrative Officer/Village President,
Thulasampatti Village Panchayat,
Omalur Taluk,
Salem District.

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records for the records relating to the proceeding in Na.Ka.No.01/2023 dated 08.06.2023 passed by the 5th respondent not to interfere with the business of school run by the petitioner.

For Petitioner : Mr. M.Elango

For Respondents : Mr.S.Arumugam
Government Advocate
for R1, R2 and R4

Mrs.Anitha
Special Government Pleader for R3

Mr.M.Abinesh for R5

ORDER

Considering the limited issue involved in this writ petition, the main writ petition itself is taken up for final hearing.

2.The petitioner who is the Secretary of Sivakami Ammal Subramaniam, Nursery and Primary School at Tholasampatti, Omalur, Salem District has filed this writ petition challenging the proceedings of the 5th respondent in Na.Ka.No.01/2023 dated 08.06.2023, wherein, the 5th respondent has directed the petitioner to produce the approval for construction of the building, failing which, the petitioner has been directed to vacate the building to enable the 5th respondent to take further action against the unauthorized construction.



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3. Heard Mr.M.Elango, learned counsel appearing on behalf of the petitioner, Mr.S.Arumugam, learned Government Advocate appearing on behalf of the respondents 1, 2 and 4, Mrs.Anitha, learned Special Government Pleader appearing on behalf of the 3rd respondent and Mr.M.Abinesh, learned counsel appearing on behalf of the 5th respondent.

4.The case of the petitioner is that the School has been running for more than 20 years with nearly 1200 students studying, out of which, 250 students have been admitted under the Right to Education Act. According to the petitioner, since the construction has been put up prior to 01.01.2011 i.e., before the date on which Section 47(A) of the Tamil Nadu Town and Country Planning Act, 1971, came into force, there is no requirement for the petitioner for getting any approval from the authorities and therefore, the petitioner is aggrieved by the impugned proceedings of the 5th respondent calling upon the petitioner to produce the relevant documents granting approval, failing which, further action will be taken.

5.The issue involved in the present writ petition is covered by the earlier order passed by this Court in a batch of writ petitions in W.P.No.24909 of 2022 etc., dated 28.10.2022. For proper appreciation, the relevant portion in the order is



22. *In that view of the matter, this Court is inclined to dispose of these writ petitions with the following order:*

- ♦ *That the members of the petitioners herein, who are the education institutions/schools or its Managements if made any construction for the purpose of running their educational institutions or schools after getting approval or without approval prior to 01.01.2011, the date on which Section 47-A of the Act has come into force, need not make any fresh application to the planning or building authorities for getting approval. But at the same time, if they made fresh construction after 01.01.2011 or additional construction, as the case may be, for which, if there is no approval obtained by them from the competent authority under the said act, those institutions and its Managements shall make an application to the competent authority i.e. planning or building approval authorities under the said Act and such proof shall be filed before the educational authorities, who are competent to consider the request of the individual schools or institutions like the members of the petitioners to consider the extension of recognition or approval of their school or educational institutions beyond 31.05.2022.*
- ♦ *If any of such institutions has not at all made any construction after 01.01.2011, a declaration to that effect in a format by way of an affidavit shall be given by each*



of the institutions to the educational authorities along with the application, that they have not put up any fresh or additional construction after 01.01.2011 for the purpose of running their educational institutions.

- ♦ *If such an application is made by the institutions their application for extension of approval or recognition, as the case may be, can be considered and decided by the competent authorities of the education department on merits and in accordance with law within a reasonable time because it relates to the current academic year i.e., 2022-2023.*

6.The 5th respondent seems to have proceeded further to take action against the petitioner institution based on the order passed in W.P.No.31777 of 2019, wherein, one Shanmugam had approached this Court on the ground that the petitioner has put up an unauthorized construction and had sought for directions to the authorities to take action. This writ petition was disposed of by this Court by an order dated 07.09.2020 and a direction was issued to the Block Development Officer to act up on the representation. In view of the same, the 5th respondent has proceeded to issue the impugned proceedings.

7.In the considered view of this Court, it will suffice if this writ petition is



(a) The petitioner is directed to produce the relevant records to substantiate the fact that the School building was put up prior to 01.01.2011, before the 5th respondent, within a period of two weeks from the date of receipt of copy of this order.

(b) The petitioner shall also produce the relevant declaration made before the educational authorities to the effect that the petitioner has not put up any fresh or additional construction after 01.01.2011 and this copy shall also be furnished before the 5th respondent, within a period of two weeks from the date of receipt of copy of this order.

(c) The petitioner shall also produce the copy of the approval granted by the educational authorities up to date and the acknowledgment of the educational authorities for the receipt of the declaration made by the petitioner and these documents shall also be furnished, within a period of two weeks from the date of receipt of copy of this order.

(d) If the 5th respondent on receipt of the documents referred to in (a), (b) and (c), is satisfied that the construction put up by the petitioner falls within the parameters fixed by this Court in W.P.Nos.24909 of 2022 etc., dated



(e) If the petitioner has not fulfilled the parameters as provided in W.P.Nos.24909 of 2022 etc., dated 28.10.2022, it is left open to the 5th respondent to proceed further in accordance with law. This process shall be completed by the 5th respondent, within a period of eight weeks from the date of receipt of copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

26.06.2023

Index : Yes/No

(2/2)

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation Case : Yes/No

ssr

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N. ANAND VENKATESH, J.

SSR

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