



W.P.No.19682 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2023

CORAM

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

W.P.No.19682 of 2023

and

WMP.No.18951 of 2023

Zing International Pre School & Day Care,
3/421-A, Rajiv Gandhi Salai, OMR,
Kazhipattur, Chennai – 603 103.

Rep. by its Correspondent

Pradeepa Thinakaran

...Petitioner

Vs.

1. The Chief Educational Officer,
Chengalpattu District,
Chengalpattu.
2. The District Educational Officer,
Chengalpattu Education District,
Chengalpattu.
3. The Block Educational Officer,
Thiruporur Block,
Chengalpattu District.
4. The Tahsildar,
Thiruporur Taluk,
Chengalpattu District.
5. M.Aravind Kumar



W.P.No.19682 of 2023

6. M.Gopinath

7. N.Nirmala Devi

...Respondents

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Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the 2nd respondent to consider the representation submitted by the petitioner school dated 29.06.2023 for grant of permission for shifting the petitioner school from the present premises to new premises within a period of 3(three) months time.

For Petitioner : Mr.Sankaran, Senior Counsel
for Mr.S.Nedunchezhiyan

For Respondents : Mr.V.Manoharan, AGP, for R1 to R4

ORDER

This Writ petition has been filed seeking direction to the 2nd respondent to consider the petitioner's representation dated 29.06.2023 for grant of permission for shifting the petitioner school from the present premises to new premises within a period of three months time.

2. Mr.V.Manoharan, learned Additional Government Pleader takes notice for the respondents 1 to 4. In view of the consent expressed by the Learned counsel appearing for either side, this petition is taken up for final disposal at the admission stage itself.



W.P.No.19682 of 2023

3. Since no adverse order is being passed against the respondents 5 to

7, notice to the respondents 5 to 7 is dispensed with.

4. The case of the petitioner is that the petitioner school was established by M/s.Zest Edutech LLP with an object for imparting Cambridge Curriculum through 'Jolly Phonics' Methodology. The petitioner school was established in the land and building which belongs to the 5th and 6th respondents, comprised in S.No.240/1 and 241/1A situated at Rajiv Gandhi Salai, Kazhipattur, Chennai by way of entering into a rental agreement dated 08.12.2021 and the patta in Patta No.966 in respect of the said land stands in the name of the 5th & 6th respondents. Further, the petitioner school obtained Structural stability certificate and other necessary certificates/approvals from the competent authority. Thereafter, the petitioner school made an application dated 24.06.2022 before the 4th respondent, seeking issuance of D-License for utilising the school building as public building under the Tamilnadu Public Building (Licensing) Act 1965, pursuant to which, the Revenue Inspector and the Deputy Tahsildar inspected the property and submitted a report before the 4th respondent on 11.07.2022 with clearance to grant D-License. While such being the case,



W.P.No.19682 of 2023

the 7th respondent, filed a Partition Suit as against the 5th and 6th respondents and others in C.S.No.730 of 2019, claiming share over suit properties and also filed an application in O.A.No.1196 of 2019 for interim injunction in respect of the suit properties which includes the subject lands where the school building is located and also filed a Writ petition in W.P.No.22508 of 2022.

5. Despite the report submitted by the officials dated 11.07.2022, the petitioner school's application for D-License was rejected by the 4th respondent, vide order dated 06.04.2023, based on the objection raised by the 7th respondent and on the ground that, there is a Civil suit as well as Writ petition filed by the 7th respondent are pending and also the school building is constructed with encroachment of Government land to an extent of 2.0 meters. Aggrieved by the above said order of the 4th respondent, the petitioner school filed a Writ petition in W.P.No.12479 of 2023, and this Court, vide order dated 21.04.2023 disposed of the said Writ petition with a direction to the 4th respondent to conduct the survey in the presence of the petitioner and the 8th respondent after issuing notice to the petitioner and aggrieved persons if any and upon re-survey if the petitioner school has



W.P.No.19682 of 2023

encroached the public road by 2.0 metres, the said encroachment shall be

removed in the manner known to law and if there is no such encroachment,

the 4th respondent shall entertain the application made by the petitioner

seeking D-licence to the petitioner School. Pursuant to which, on

14.06.2023, the 4th respondent conducted survey in subject lands in the presence of the parties and submitted a report dated 23.06.2023 stating that

there is an encroachment in the Government land to an extent of 0.01.20 ares or 3 cents of land belonging to Highways Department and

encroachment of 70 sq. meters on the water body with construction of compound wall. In the mean while, pursuant to the order of the 4th

respondent dated 06.04.2023, the 2nd respondent, vide proceedings dated 17.05.2023 bearing Na.Ka.No.93/A3/ 2022, restrained the petitioner from

running the school. In such circumstances, the petitioner decided to shift their school to a new premises shortly, after obtaining necessary certificates

and since it requires at least three months, the petitioner school made a representation dated 29.06.2023 before the 2nd respondent along with

shifting form, seeking to defer any further action in pursuance of the proceedings dated 17.05.2023 and sought for a minimum time period of

three months to shift the school to a new premises. However, till date, no



W.P.No.19682 of 2023

orders have been passed on the said representation. Hence, this Writ petition.

6. Though very many grounds have been raised, learned Senior counsel appearing for the petitioner submitted that, it would suffice, if this Court issues direction to the 2nd respondent to consider the petitioner school's representation dated 29.06.2023 and to consequently grant permission for shifting the petitioner school from the present premises to new premises within a period of three months.

7. Learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that, appropriate orders will be passed in the petitioner school's representation dated 29.06.2023 within the time stipulated by this Court.

8. In view of the aforesaid submissions, this Court, without expressing any opinion on the merits of the case, directs the 2nd respondent to consider the petitioner school's representation dated 29.06.2023 on merits



W.P.No.19682 of 2023

and in accordance with law and pass appropriate orders, within a period of four weeks from the date of receipt of a copy of this order, after affording an opportunity of personal hearing to the petitioner school and private respondents.

9. Accordingly, this Writ petition stands disposed of. No costs. Consequently, connected Miscellaneous petition is closed.

30.06.2023

skt

NCC : Yes/ No
Speaking Order : Yes/ No
Index : Yes/ No

Note to office: Issue order copy on 04.07.2023.

To

1. The Chief Educational Officer,

7/9



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W.P.No.19682 of 2023

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Chengalpattu.

2. The District Educational Officer,
Chengalpattu Education District,
Chengalpattu.
3. The Block Educational Officer,
Thiruporur Block,
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M.DHANDAPANI., J.

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W.P.No.19682 of 2023



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