



W.P.No.24500 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.08.2023

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU
AND
THE HONOURABLE Mrs.JUSTICE N.MALA

W.P.No.24500 of 2023
and
W.P.M.P.No.23922 of 2023

D.John Alferd
rep. by its Chairman,
S.Alferd educaitional Trust,
No.432, seethakathi Salai,
Panneer Nagar, Mogappair East,
Chennai - 600 037.

.... Petitioner

VS

1. The Secretary to Government,
Housing and urban Development Department,
St.George Fort,
Secretariat,
Chennai - 600 009.
2. Executive Engineer, Zone-Vii,
Greater Chennai Corporation,
Thiruvallur High Road,
Opp. Dunlop,
Chennai - 600 053.



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3. Assistant Executive Engineer,
Zone-VII, Unit-20,
Greater Chennai Corporation,
Thiruvallur High Road,
Opp.Dunlop,
Chennai - 600 053.

4. Assistant Engineer,
Division 92, Unit-20, Zone-VII,
Greater Chennai Corporation,
Thiruvallur High Road,
Opp.Dunlop,
Chennai - 600 053.

....Respondents

Writ Petition filed under Article 226 of the Constitution to issue a Writ of Mandamus forbearing the respondents 2 to 4 from taking coercive steps pursuant to the de-occupation Notice Letter Zone-7/TPENF/500/2018 dated 05.06.2023 till disposal of Appeal dated 09.06.2023 by the 1st respondent.

For Petitioner : Mr.G.Ramachandran

For Respondents : Mr.E.Vijayanand,
Additional Government Pleader for R1
Mr.D.B.R.Prabu,
Standing Counsel for R2 to R4



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ORDER

This Writ Petition has been filed for issue of Writ of Mandamus forbearing the respondents 2 to 4 from taking coercive steps pursuant to the de-occupation Notice Letter Zone-7/TPENF/500/2018 dated 05.06.2023 till disposal of Appeal dated 09.06.2023 by the 1st respondent.

2. Mr.E.Vijayanand, learned Additional Government Pleader takes notice for the 1st respondent. Mr.D.B.R.Prabu, learned Standing Counsel takes notice for the 2nd to 4th respondents. By consent of both parties, the main writ petition is taken up for final disposal at the admission stage itself.

3. The case of the petitioner is that the petitioner and others formed a Trust named St.Alfred Educational Trust. The Trust established an Arts College in the name of 'JA Arts and Science College' at Mogappair East, Chennai, and the same was recognized by the Government vide G.O.Ms.No.194 dated 19.05.1998. Similarly, the University of Madras had inspected and granted affiliation for the academic year 1998-1999. While so, the Government announced "Regularization Scheme 1999" and invited



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application for the existing unapproved buildings vide (CMDA) Rules 1999 dated 01.03.1999. The petitioner's Trust applied to CMDA, the application form along with relevant documents. While so, the petitioner's Trust wanted to develop, expand and enlarge the college with many new additional courses and master degree programmes, for which, the existing place was not sufficient. Hence, the College was shifted to bigger place near Chengalpattu and the petitioner decided to utilize the institutional building and started a School in the name and style of 'Ravindra Bharathi Global School' which was approved by the Government of Tamilnadu dated 14.07.2015. While so, the petitioner received a letter dated 05.10.2013 from CMDA asking to submit the evidence listed thereon to prove the construction covered in the regularization application was completed prior to 28.02.1999 i.e., before the cut off date for consideration under 1999 Regularization Scheme. Therefore, the petitioner, once again, furnished the required documents, which was acknowledged by CMDA and instead of considering the regularization application under Regularization Scheme 1999, the CMDA rejected the said application stating that the same does not satisfy the conditions prescribed by the Court Reg.1999 Rule 3(1) vide letter dated 24.09.2018. Against the same, the petitioner's Trust filed an appeal to



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the Government under Section 113(A) of Tamilnadu Town and Country Planning Act, 1971 and requested to reconsider the rejection order of the regularization application, which is still pending. In the meantime, due to influence of third party the respondents 2 to 4 issued Locking and Sealing Notice dated 14.06.2018. The petitioner approached the respondents 2 to 4 and explained that the building in question is an Educational Institution which was established in the year 1997. The petitioner filed an appeal against the rejection of regularization application which is still pending and requested the officials not to take any coercive action, since the education of the children will be put to jeopardized. Subsequently, the respondents 2 to 4 had issued the impugned de-occupation notice dated 05.06.23 directing to discontinue the occupation of the school building in order to lock and seal the same. Hence, the present writ petition with the aforesaid relief.

4. Heard the learned counsel for the petitioner and perused the materials available on record.

5. Considering the above facts and circumstances of the case, without going into the merits of the claim projected by the petitioner, we direct the



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1st respondent to dispose of the petitioner's appeal dated 09.06.2023 on merits 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. The writ petition is disposed of accordingly. No costs. Consequently connected miscellaneous petition is closed.

(J.N.B.,J.) (N.M.,J.)
21.08.2023

Index:Yes/No
Speaking/Non-speaking order
vsi

To

1. The Secretary to Government,
Housing and urban Development Department,
St.George Fort, Secretariat,
Chennai - 600 009.
2. Executive Engineer, Zone-Vii,
Greater Chennai Corporation,
Thiruvallur High Road, Opp. Dunlop,
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and
N.MALA,J.

vsi

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