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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.06.2023

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THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.9663 of 2023 and
W.M.P.(MD)No.8553 of 2023

Next Level Kids Smart Play School,
represented by its Correspondent, J.Preethloshni,
Karaikudi.

... Petitioner

vs.

1.The District Elementary Education Officer,
Department of Elementary Education,
Sivagangai.

2.Tahsildar,
Taluk Office, Karaikudi, Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for records of the first respondent in his proceedings in Na.Ka.No.0248/A/2023, dated 31.05.2023 which was received on 06.04.2023 insofar as it insists for production of Public Building Licence and to quash the same and consequently, to direct the first respondent to issue renewal for running the petitioner school without insisting for the building licence in light of the provision of Section 7 of the Tamil Nadu Public Building (Licensing) Act, 1965.



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For Petitioner :Mr.A.Srinivasan
For Respondents :Mr.M.Ramesh
Government Advocate

ORDER

This Writ Petition has been filed in the nature of a Certiorarified Mandamus to call for records for the first respondent/District Elementary Education Officer, Department of Elementary Education, Sivagangai, relating to proceeding in Na.Ka.No.0248/A/2023, dated 31.05.2023, which was received by the petitioner on 06.04.2023 in so far as it insists production of public building licence and with respect to the registration of lease deed for running of the school in the land.

2.Heard Mr.A.Srinivasan, learned Counsel for the petitioner and Mr.M.Ramesh, learned Government Advocate for the respondents.

3.The learned Counsel for the petitioner stated that the petitioner school, Next Level Kids Smart Play School, is running and is managed by Professor Ganapathy Charitable Trust, established on 17.10.2017 registered as Doc.No.123/2017 in the Sub Registrar, Karaikudi. The



school had been established after obtaining permission from all necessary authorities. However, the first respondent had issued the impugned notice claiming that the stability for the building, where the school is running, had not been issued by the second respondent/Tahsildar.

4.It was also complained that the lease under which the petitioner is in possession of the building where the school is run, was by an unregistered lease deed and was not a registered lease deed, for a period of 15 years.

5.So far as the first objection raised by the first respondent is concerned, it is claimed by the learned Counsel for the petitioner that the second respondent/Tahsildar had inspected the school premises on atleast two occasions, but had not granted the certificate. The learned Counsel for the petitioner placed specific reliance on the provision that if licence is not granted within a period of three months from such inspection, then it is deemed to have been granted.

6.Since the school is for the benefit of young children who are in



primary classes, it would only appropriate that to inspire confidence among the parents and also the students and also the Teachers, it is ensured that the building is stable and there is no danger of any damage being caused owing to any untoward incident.

7.A direction is therefore issued to the second respondent/Tahsildar, if required, to make one inspection on or before 16.06.2023 and on the basis of such inspection, issue necessary certificate on or before 23.06.2023.

8.Let me not be too insistent on the issue of lease, which is primarily an agreement between the petitioner and the landlord. I am informed that a suit is also pending between them and if the petitioner suffers an adverse order in so far as their continuation of occupation in the said premises, then naturally any permission granted would come to an abrupt end consequent to such order of the Civil Court. Therefore, the first respondent may not insist on that particular aspect.

9.With the said directions given to the second respondent, the Writ



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Petition stands disposed of. The impugned order is set aside in so far as the insistence of the lease agreement is concerned, but a fresh order may be issued on the basis of the report to be given by the Tahsildar on or before 23.06.2023. No costs. Consequently, connected miscellaneous petition is closed.

Index :Yes / No
Internet :Yes
NCC : Yes/No

05.06.2023

cmr

To

1.The District Elementary Education Officer,
Department of Elementary Education,
Sivagangai.

2.Tahsildar,
Taluk Office, Karaikudi, Sivagangai District.



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C.V.KARTHIKEYAN, J.

cmr

Order made in
W.P.(MD)No.9663 of 2023

05.06.2023