



W.P.(MD)No.11335 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:04.05.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.11335 of 2023

and

W.M.P(MD).Nos.9870 and 9871 of 2023

Sainiks Matriculation School,
Nadutheri,
Karungal Post,
Kanyakumari District,
Rep.by its Correspondent,
P.Churchil
S/o.Ponnappan

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.

2.The Director of Private Schools,
DPI Campus, College Road,
Chennai-600 006.

3.The District Educational Officer (Private Schools),
Kanyakumari District,
Kanyakumari.

... Respondents



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Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the entire records pertaining to the impugned proceedings issued by the second respondent in Na.Ka.No.6850/A2/2018 dated 29.03.2023 (served on the petitioner School on 03.04.2023) and quash the same.

For Petitioner	: Mr.G.Sankaran Senior Counsel for Mr.F.Deepak
For Respondents	: Mr.D.Gandhiraj Special Government Pleader

ORDER

This Writ Petition has been filed to call for the entire records pertaining to the impugned proceedings issued by the second respondent in Na.Ka.No.6850/A2/2018 dated 29.03.2023 and quash the same.

2. The learned counsel appearing for the petitioner would submit that the petitioner School was established in the year 1999-2000, and was granted with opening permission for the year 1999-2000 with standards



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I to VII vide proceedings dated 14.07.2000, formal permission for standards I to VII vide proceedings dated 12.03.2001, and temporary recognition vide proceedings dated 15.10.2001. Thereafter, the petitioner School was upgraded with standards VIII and IX vide proceedings dated 14.01.2003 and further granted with recognition upto X Standard vide proceedings dated 08.09.2003. The recognition has been renewed periodically for every three years. While so, the Government issued order in G.O(2D).No.48 dated 21.07.2004 prescribing minimum infrastructural facilities which include minimum land area for each school depending upon the location of the school. It is followed by G.O(2D).No.24 dated 23.04.2010 that the entire land area for the school should be composite land the playground or any part of the School should not be in a different place. Subsequently, the Government has constituted a Committee to reconsider the entire issue vide G.O.Ms.No.54 dated 05.03.2013. The Committee has submitted its report in the year 2017 as per which the State Government issued G.O.Ms.No.175 dated 20.07.2017 prescribing condition restricting admission of number of students in accordance with availability of land space at the rate of 10 sq.ft per student and 40 sq.ft



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per teacher. The conditions relating to land requirement as noted in G.O(2D).No.48 and G.O(2D).No.24 has been deleted and modified.

3. The petitioner School submitted a proposal seeking up-gradation as Higher Secondary School in the year 2012 on payment of necessary charges enclosed with documents including statutory certificates as required under Matriculation Code. However, no order was passed by the second respondent. Hence, the petitioner School has filed a writ petition in W.P.No.26920 of 2014 and this Court passed an order on 22.02.2018 to consider the representation and pass orders on merits and in accordance with law, within a period of six weeks after due opportunity. Subsequently, the second respondent issued proceedings dated 10.12.2019 to inspect the school and submit a report for the purpose of consideration of the application for upgradation of the School. Thereafter, the third respondent inspected the school and submitted a report and recommended for up-gradation of the school as Higher Secondary school vide report dated 22.09.2020. However, the second respondent issued a notice dated 25.03.2021 in deviation to the order



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passed in the writ petition relating to upgradation of the School and the petitioner School submitted a reply on 21.04.2021. However, the second respondent has passed the impugned order on 29.03.2023, served on 03.04.2023, withdrawing the recognition granted in favour of the petitioner School for standards LKG to X granted from the academic year 1999 by stating that the School cannot function from the academic year 2023-24. Challenging the same, the present writ petition has been filed.

4. The learned Senior counsel appearing for the petitioner would submit that admittedly, the petitioner School submitted a detailed reply narrating the fact that the petitioner School obtained a lease deed in the year 2009 to the extent of 1 acre 1 cent and 609 sq.feet. However, the said deed was not properly considered and without providing any opportunity to the petitioner, based on the reply, the second respondent decided the matter which is not sustainable one. It is a clear violation of principles of natural justice and the petitioner School is running from the year 1999 without any complaints. The fact remains that the land is very much available from the year 2009 onwards. G.O.(2D).No.48, dated



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21.07.2004, prescribes minimum land area for each school and the said Government order was superseded by G.O.Ms.No.175 dated 20.07.2017. The petitioner has satisfied the land requirement in terms of the said Government Order. However, without providing any opportunity to the petitioner School, the present impugned order has been passed by the second respondent.

5. The learned Special Government Pleader appearing for the respondents would submit that the petitioner School claims that they obtained the lease deed in the year 2009 and since the second respondent, without considering the lease deed, has passed the impugned order, this Court may set aside the impugned order passed by the second respondent.

6. The facts in the present case are not in dispute. Admittedly, the petitioner School has obtained the lease deed on 14.08.2009. However, the second respondent, without considering the lease deed dated 14.08.2009, has passed the impugned order dated 29.03.2023. Hence,



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this Court is inclined to set aside the impugned order dated 29.03.2023 passed by the second respondent and the matter is remanded back to the second respondent for fresh consideration and after providing opportunity to the petitioner School pass appropriate orders within a period of four weeks from the date of receipt of a copy of this order. Till such time, the petitioner School is directed not to admit the students, without the approval of the second respondent.

7. Accordingly, this Writ Petition is allowed. No costs. Connected miscellaneous petitions are closed.

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Index:Yes/No
Internet:Yes/No
ssb/sm

To
1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government,
School Education Department,
Secretariat, Fort St.George,
Chennai-600 009.



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2.The Director of Private Schools,
DPI Campus, College Road,
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3.The District Educational Officer (Private Schools),
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M.DHANDAPANI,J.

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