



W.P(MD)No.19458 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.19458 of 2023

and

W.M.P.(MD)Nos.14204 & 14206 of 2023

Immanuel Arasar International Institute
of Science and Technology Educational
and Charitable Trust,
Rep. by its Managing Trustee,
Dr.Sam G.Jeba Joselin,
S.G.Hospital Campus,
Old Theatre Junction,
Pammam, Marthandam,
Kanyakumari District-629 165.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Department of Health and Welfare,
Fort St.George, Chennai-600009.
- 2.The Director,
Directorate of Indian Medicine and Homeopathy,
Arumbakkam,
Chennai-600 106.
- 3.Tamil Nadu Dr.M.G.R.Medical University,
Rep. by its Registrar,
No.69/40, Anna Salai,
Guindy, Chennai-600 032.
- 4.The President,



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Nattalam Village Panchayat,
Nattalam,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned proceedings issued by the 2nd respondent Director of Indian Medicine in Ref. No.8338/P and D-3/2021 dated 07.07.2022, Quash the Same as illegal and void and further, Direct the 1st respondent to give 'No Objection Certificate' forthwith to the petitioner to start Immanuel Arasar Naturopathy and Yoga Science (BNYS) Degree course from the academic year 2022-2023 by considering the petitioner's application to him dated 14.07.2021.

For Petitioner : Mr.K.Ragatheesh Kumar
for M/s.Issac Chamber

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
assisted by Mr.S.Ra.Ramachandran
Additional Government Pleader for R1, R2 & R4

: Mr.A.S.Vaigunth for R3

ORDER

Heard both sides.

2. The petitioner wanted to start Bachelor of Naturopathy and Yoga Science degree course. They applied to the Government in this regard.



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The Government called upon the petitioner to submit DTCP approval for construction of the building and the building completion certificate issued by DTCP in respect of the college. The said communication dated 07.07.2022 is put to challenge in this writ petition.

3. The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to grant relief as prayed for.

4. The learned Additional Advocate General appearing for the respondents points out that from the materials available on record, it can be seen that the petitioner had obtained completion certificate only in the year 2017 and that therefore, the demand set out in the impugned communication is well founded. He called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. The only question that calls for consideration is when the buildings were constructed. According to the petitioner, the buildings were constructed prior to 2010. Explanation given by the petitioner's counsel is that even though the buildings were completed and also assessed to property tax



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from the year 2010, for the purpose of processing the petition mentioned application, the petitioner had approached the authorities in the year 2017 and got fresh Land Use Conversion Certificate and Completion Certificate. According to the petitioner's counsel, this Court can safely ignore the same. I wanted to know if there are any house tax receipts issued by the local body. Copy of the receipt dated 08.04.2010 issued by the local body has been produced for my consideration. The learned counsel also produced the copies of the Building License issued by the Tahsildar, Vilavancode on 10.05.2010. The land was registered in favour of the petitioner on 14.10.2005. The Land Use Conversion Certificate for educational purpose was issued on 05.11.2007. Construction was completed during 2009-2010. The fact that the building was assessed to house tax in the year 2010 has also been established.

6. In these circumstances, the question of applying Section 47A of the Town and Country Planning Act, 1971 in the case of the petitioner's building will not arise at all. Section 47-A came into force with effect from 01.01.2011. Thus, during the relevant time, when the petition mentioned building was put up, there was no stipulation that approval must be obtained from the Director of Town and Country Planning. Since Section 47-A was held to operate only prospectively, the petitioner was justified in obtaining planning approval from



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the local body alone. Of-course, the executive officer of the local body could have granted approval only after consultation with the Joint Director of Town and Country Planning. But this requirement of having prior consultation before issuing the planning approval is an interdepartmental affair. The petitioner cannot be put to prejudice, if the local body had issued permission without such prior consultation. G.O.Ms.No.53, Housing and Urban Development (UD4(3)) Department, dated 16.04.2018 would also operate only prospectively. This is clear from Clause 2(f) of the G.O.

7. In this view of the matter, the impugned communication is set aside. The petitioner's application for starting the petition mentioned course will be considered on merits by the first respondent. The first respondent will pass an appropriate order in accordance with law within a period of six weeks from the date of receipt of a copy of this order.

8. The Writ Petition is allowed on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

23.11.2023

Index : Yes / No
Internet : Yes/ No
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NOTE:Issue Order Copy on 24.11.2023



WEB COPY



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G.R.SWAMINATHAN, J.

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To

- 1.The Secretary,
Department of Health and Welfare,
Fort St.George, Chennai-600009.
- 2.The Director,
Directorate of Indian Medicine and Homeopathy,
Arumbakkam,
Chennai-600 106.
- 3.The President,
Nattalam Village Panchayat,
Nattalam,
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