



W.P(MD)No.12380 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 04.09.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12380 of 2015
and
M.P.(MD)No.1 of 2015

The Secretary,
Servite College of Nursing,
Manikandam Post,
Edamalaipatty Pudur (Via)
Thiruchirappalli – 620 012,
Tiruchirappalli District.

... Petitioner

Vs.

- 1.The Director of Town & Country Planning,
Directorate of Town & Country Planning,
No. 807, Anna Salai, Chennai – 600 002.
- 2.The Deputy Director of Town & Country Planning,
10, Williams Road, Contonement,
Tiruchirapalli – 620 001.
- 3.The President / District Collector,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli, Tiruchirapalli District.
- 4.The Member Secretary,
Tiruchirapalli Local Planning Authority,
Tiruchirapalli, Tiruchirapalli District.



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5.Nagamangalam Panchayat,
Tiruchirapalli District,
Rep. by its President.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to impugned notice issued by the 2nd respondent Deputy Director of Town and Country planning in Na.Ka.No.545/2015 Thi.ma2 dated 13.06.2015 quash the same.

For Petitioner : Mr.M.Ragatheesh Kumar,
For Mr.T.Cibi Chakraborty.

For Respondents : Mr.D.Gandhiraj,
Spl. Government Pleader for R1 to R4.
Mr.K.Magesh Raja for R5.

ORDER

Heard the learned counsel on either side.

2.The petitioner is a minority educational institution. It is running a college of nursing. They obtained permission from the Government



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vide G.O.(Ms)No.37 Health and Family Welfare Department dated 31.01.2008 for starting the B.Sc Nursing college at Nagamangalam Village, Manikandam, Trichy District. The petitioner put up their college building after getting permission from the local body.

3.The petitioner received notice under Section 47-A of Tamilnadu Town and Country Planning Act, 1971 from the second respondent. The petitioner offered their reply pointing out that the buildings were put up even before introduction of Section 47-A of the Act. Without properly considering the same, the impugned notice dated 13.06.2015 came to be issued threatening the petitioner with lock and seal measures. Aggrieved by the same, the present writ petition came to be filed.

4.The categorical stand of the petitioner is that the building was put up in the year 2008 itself. Section 47-A of the Act was introduced only on 29.12.2010 and came into force with effect from 01.01.2011. Of course, the local body could have granted approval in favour of the petitioner only after consultation with the jurisdictional Joint Director of Town and Country Planning. However, it has been held in more one



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decision that this requirement of having prior consultation before issuing planning approval was an interdepartmental affair and that the petitioner cannot be blamed if the local body had issued the approval without such consultation. It is beyond dispute that Section 47-A of the Act would operate only prospectively. (Order dated 01.03.2023 made in W.P.(MD)No.28033 of 2022).

5.In this view of the matter, the order impugned in this writ petition is set aside and the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.09.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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