



W.P.(MD)No.8161 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.08.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8161 of 2015

and

M.P.(MD)No.2 of 2015

M.A.Dawood Batcha,
Founder Chairman,
Rajagiri Dawood Batcha College of Arts & Science,
Papanasam-614 205,
Thanjavur District.

... Petitioner

Vs.

1.The State of Tamil Nadu,
Rep. by its Secretary,
Housing Department,
Fort St.George,
Chennai-600 009.

2.The Director of Town & Country Planning,
Annasalai,
Chennai-600 002.

3.The Deputy Director,
Town and Country Planning,
Thanjavur Region,
No.33, 4th Street,
Rajappa Nagar,
Medical College Road,
Thanjavore-630 007.

... Respondents



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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call the records of the 3rd respondent in Na.Ka.No. 546/2012, dated: 04.03.2015 and quash the same and also forbearing the 3rd respondent from proceeding with amended section 47-A of the Tamil Nadu Town and Country Planning Act, 1971 invoking Sections 85 R/w 56 and 57 against Rajagiri Dawood Batcha educational institutions which is comprised in S.No. 200/2, 201/1B& 1C, 202/1A& 1B, 207/2, 209/1 & 2 and 1/1 of Papanasam, thanjavore District, since the same is not applicable to the Petitioner.

For Petitioner : no appearance

For Respondents : Mr.N.Satheeshkumar
Additional Government Pleader for R3

: No appearance for R1 & R2

ORDER

None appeared for the petitioner on the last occasion. The case is posted under the caption 'for dismissal'. Today also, there is no representation for the petitioner.

2. I went through the contents of the affidavit filed in support of the writ petition. The petitioner challenges the impugned order passed by the third respondent proposing action under Sections 56 & 57 of Tamil Nadu Town and Country Planning Act, 1971. The petitioner is running educational institution.



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He had put up buildings. The stand of the authority is that since approval has not been obtained from the competent authority namely the Deputy Director of Town and Country Planning, construction will have to be either regularised or demolished. Even though the impugned notice does not invoke Section 47A of the Act, reliance has been placed on the said provision. The said provision was introduced in the statute book only in the year 2010. The buildings appear to have been put up in the year 2007 itself. Section 47A of the Act is prospective. Of-course, even during the relevant time, when the constructions were put up, the Deputy Director of Town and Country Planning ought to have been associated in the process of granting planning approval. But then, that was an intra-departmental affair between the local body and the Town Planning authority. The applicant cannot be blamed if the local body failed to consult the town planning authority. Therefore, the notice impugned in the writ petition is set aside.

3. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

24.08.2023

Index : Yes / No
Internet : Yes/ No
rmi



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G.R.SWAMINATHAN, J.

rmi

To

The Deputy Director,
Town and Country Planning,
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