



WP(MD)No.9287 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.10.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.9287 of 2016

and

WMP(MD)No.7375 of 2016

Perunthalaivar Kamarajar
Matriculation School,
Represented by its Correspondent,
R.Ravichandran

... Petitioner

Vs

1.The Deputy Director of Town
and Country Planning,
4, Hakkkim Amalkhan Road,
Chinna Chokkikulam,
Madurai - 625 002.

2.The President,
Dhalavaipuram Village and Panchayat,
Rajapalayam Panchayat Union,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the proceedings dated 03.05.2016 in Na.Ka.No. 1042/2015 MM4 on the file of the Deputy Director of Town and Country Planning, Madurai - 625002 and quash the same.



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For petitioner : Mr.Y.Prakash
For Respondents : Mr.PT.Thiraviyam,
Government Advocate

ORDER

The show cause notice issued by the 1st respondent dated 03.05.2016 is challenged in this writ petition.

2.Vide the impugned notice the 1st respondent has stated that the petitioner school has constructed a building without building plan approval from the 1st respondent and therefore, they have treated this building as an unauthorised building and have taken action as per Sections 56 and 57 of the Town and Country Planning Act. This notice was issued in the year 2016. The petitioner has challenged the same in the year 2016 on the ground that this petitioner has obtained the building plan approval on 27.03.2012 to an extent of 3941 Sqft. However, the case of the petitioner is that the petitioner has put up a construction to an extent of 12,000 Sqft in an area of 320 acres and running a school.



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3. Admittedly the petitioner has constructed to an extent of 12,000- / sqft. The respondents claim that the petitioner has not obtained the required permission under Section 47(A) and 49 of the Town and Country Planning Act and therefore, the building has to be treated as an unauthorised building and necessary action has been taken as per Sections 56 and 57 of the Town and Country Planning Act.

4. When this writ petition has been taken up for hearing today a representation has been made on behalf of the petitioner that the petitioner's counsel is in Chennai and requested for further time.

5. When this writ petition was listed for hearing on 24.03.2023 a similar request was made and it was adjourned to 31.03.2023. On 21.04.2023 there was no representation for the petitioner and therefore, this Court directed the writ petition to be listed on 26.04.2023. Thereafter the writ petition was listed on 05.10.2023 and a similar request was made on 05.10.2023, and therefore, the case is



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listed today. But the learned Counsel for the petitioner is not prepared to proceed with the case. If the learned Counsel is in Chennai, he can represent through video conferencing, which is very well available. Even then the learned Counsel has not preferred to represent this case. Since this writ petition is pending from the year 2016, which is filed against the show cause notice, in view of the ratio laid down by the Hon'ble Supreme Court, the impugned proceedings is only a show cause notice, therefore, this writ petition is not maintainable in view of the decision of the Hon'ble Supreme Court in **Union of India vs. Kunishetty Satyanarayana [(2006) SCC 28]**

6.This writ petition is dismissed with liberty to the petitioner to raise all the grounds before the authority concerned. No costs. Consequently connected miscellaneous petition is also dismissed.

11.10.2023

dsk



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B. PUGALENDHI, J.

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