



W.P.Nos.23049 of 2023 etc

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2024

WEB COPY

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.Nos.23049, 23052, 23054 of 2023, 1840, 1846 & 3867 of 2024
and
W.M.P.Nos. 1912, 1919 of 2024

W.P.No.23049 of 2023

Srimathi Kunjammal Nursery & Primary School,
Rep. By its Correspondent Mrs.K.Mangayarkarasi,
39-75, Pidari Kovil Street,
Kodavasal, Thiruvavarur District – 612 601.

.. Petitioner

VS

1.The Secretary,
Government of Tamilnadu
Department of Education, Chennai.

2.The Director of Private Schools,
DPI Complex, College Road,
Chennai – 600 006.

3.The District Education Officer
(Private Schools),
(Previously designated as Chief Educational Officer)
Now this post is abolished
Thiruvavarur District, Thiruvavarur.

.. Respondents

Prayer in W.P.No.23049 of 2023 : Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus calling for the records and quash the impugned order dated 07.02.2022 passed by the 3rd respondent in his proceeding in Na.Ka.No.8853/E5/2019 and consequently direct the 2nd respondent to pass an order upgrading the recognition to the petitioner from Primary (LKG to V std) to Elementary (up to VIII std) and pass such other order as are deemed fit and proper in the facts and circumstances of the case and thus render justice.



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For Petitioner : Mr.D.Baskar
(in all writ petitions)

For Respondents : Mr.M.Rajendiran
Additional Government Pleader
(in all writ petitions)

COMMON ORDER

Heard Mr.D.Baskar, learned counsel for the petitioner and Mr.M.Rajendiran, learned Additional Government Pleader for the official respondents.

2. Read this order in continuation of and in conjunction with order dated 14.06.2024 that reads as follows:-

"Impugned order dated 07.02.2022 sets out a slew of defects concluding with the withdrawal of approval to the school.

2. Learned counsel for the petitioner would accede to the position that many of those defects were rectified only post passing of that order.

3. In such circumstances, there is prima facie no justification for these writ petitions as the impugned order withdrawing the approval is seen to be justified.

4. The challenge now is premised on the assumption of jurisdiction by R3, being the District Education Officer (Private Schools). According to the petitioner, the appropriate authority for withdrawal of approval is the Director of Public Schools arrayed as R2.

5. For this purpose, he relies on G.O.Ms.No.151, clause (2) of the Annexure, which stipulates that the District Educational Officer / R3 is only to recommend the closure of schools to R2, who is the appropriate authority to consider the same. However, that G.O is dated 09.09.2022 whereas the impugned order is passed on 07.02.2022.

6. Let the parties provide the specific rule / statutory provision / government order which deal with this aspect of the matter.



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7. List on 27.06.2024.

8. Print the name of Mr. Rajendiran, learned AGP in place of Mr. S.J. Mohammed Sathik, learned Government Advocate."

3. Learned counsel for the petitioner produces the then prevailing Government Order in G.O.(Ms.)No. 145, School Education (GL1(2)) Department dated 17.07.2018, as per which, the competent authority to grant permission to open / upgrade an existing school would be the Joint Director (Elementary Education). Hence, and as per this stipulation, rejection of upgradation by R3 / District Education Officer is incorrect as that officer was bereft of the necessary jurisdiction. Faced with this position, Mr. Rajendiran, would have no choice but to agree.

4. Moving on, since the petitioner pursues the proposal for upgradation, let the impugned order dated 07.02.2022 be treated as a proposal by R3, to be placed before the Director of Private Schools for his consideration in terms of extant Government Order, being G.O.(Ms.)No.151 dated 09.09.2022.

5. Both learned counsel would accede to the following procedure:

(i) R3 will make an inspection of the petitioner school prior to 05.07.2024 to update himself with the status of infrastructure and compliances with the existing defects.

(ii) The petitioner and District Educational Officer / R3 will appear before R2 on Friday i.e., 05.07.2024



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at 12 noon without awaiting any further notice.

(iii) Petitioners will carry proof of compliance of the defects that have been pointed out by R3 in the impugned order as well as other materials in support of its stand.

(iv) After hearing both the parties, R2 shall decide the application for upgradation within a period of four weeks from that date i.e., on or before 05.08.2024.

6. Writ petitions stand disposed in terms of this order. No costs.

Connected miscellaneous petitions are closed.

27.06.2024

Index:Yes/No
Neutral Citation:Yes
ssm

Note to Registry : Upload today.

To

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DR. ANITA SUMANTH,J.

ssm

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