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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.12.2024

CORAM

THE HON'BLE Mr. JUSTICE **C.V.KARTHIKEYAN**

W.P.No.26168 of 2021
and W.M.P.Nos.29239 & 27624 of 2021

Mahavir Plantations Pvt., Ltd.,
Silver Bright House
Chullickal Road,
Kochi
Kerala 682 005

.. Petitioner

Vs.

- 1.The District Collector,
Collectorate,
Udhagamandalam, Nilgiris.
- 2.The Sub Collector,
Sub Collector Office,
Udhagamandalam – 643 001.
- 3.The Tahsildar,
Taluk Office,
Udhagamandalam Taluk,
Nilgiris District – 643 001.
- 4.The Block Development Officer,
Ooty,
Udhagamandalam,
Nilgiris District.

.. Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, forbearing the respondents 1 to 4 from putting up school constructions in S.No.175/ 4 of Naduvattam Village, Ooty Division without obtaining prior permission from the authorities concerned in accordance with law and consequently remove all the illegal constructions and developments made by the respondents in the land.

For Petitioner .. Mr.C.Vigneswaran

For Respondents .. Mr.N.Naveen Kumar
Government Advocate for R1 to R3

Mr.M.G.Arunkaruppiyah for
Mr.R.Siddarth for R4

ORDER

This writ petition has been filed in the nature of mandamus seeking a restraint against the respondents 1 to 4, District Collector, Sub Collector both of Udthagamandalam, Nilgiris District and the Tahsildar of Udthagamandalam Taluk and the Block Development Officer of Udthagamandalam both in Nilgiris District from putting up School constructions in S.No.175/4 at Naduvattam Village, Ooty Division without obtaining prior permission from the authorities concerned and remove all the illegal constructions and developments made by the respondents in the land.



2.The petitioner herein, Mahavir Plantations Pvt., Ltd., was incorporated under the Companies Act, 1956 and engaged in the Plantation Industry having registered office at Kochi. It had been stated that in December 2020, several construction works had been initiated for the Public Works Department with the permission of the Revenue Department for widening of Roads and building of Public toilet. In the midst of that, a foundation stone was also laid for building a school in the area. All these constructions were made in S.Nos.175/1, 175/2 and 175/3 at Naduvattam Village which lands are owned by the petitioner Company. It had been stated that the encroachment is carried by the State. Representations were given by the petitioner herein.

3.Thereafter, it had been contended that the petitioner had filed W.P.No.12655 of 2021 before this Court and a learned Single Judge had directed *status quo* by an order dated 15.06.2021. A survey was directed to be conducted with respect to the layout of the land in S.Nos.175/1, 175/2 and 175/3 of Naduvattam Village. It had been contended that the respondents had informed the Court that the construction had stopped. Thereafter, the petitioner found that the construction of a school had commenced in the adjacent land at S.No.175/4, T.R. Bazar in Naduvattam Village. This land does not belong to the petitioner, but



belongs to the Government. But however, the petitioner still had grievances over the construction of School. According to him, permission has not been obtained from the competent authorities for building the school in that particular land. It had also been stated that it was mandatory that planning permission should be obtained. It was further contended that the school was built on a hilly terrain and permission from the Soil Conservation Department has to be obtained. It had been stated that a Public Interest Litigation was also filed before this Court about the constructions being undertaken in Nilgiris which is a hilly area. It is under those circumstances that the petitioner had given a representation on 27.09.2021 and later, since the same had not been considered by the respondents had filed the present writ petition in the nature of mandamus.

4.The matter came up for consideration initially on 19.12.2021. An application had been filed by a third party in W.M.P.No.29239 of 2021 seeking to implead him as a further respondent in the writ petition. No orders have been passed in the said application. The matter then came up for consideration on 06.01.2022. On that date, the learned counsel for the petitioner had pointed out that there has been violation of Rule 6 sub-rule (4) of the Tamil Nadu Combined Development and Building Rules, 2019 and it was contended that permission



granted to construct the school should be reexamined by this Court. The learned Single Judge had however examined that particular argument advanced on behalf of the petitioner and had stated that the Rules cannot override the substantial provision of Section 49 of the Tamil Nadu Town and Country Planning Act, 1971. The matter then came up again for consideration on 10.01.2022, where further arguments was advanced on behalf of the petitioner that Section 58 of the Tamil Nadu Town and Country Planning Act, 1971 had not been followed in letter and spirit. The petitioner sought that this Court should reexamine the entire planning permission granted for construction of the said school. The learned counsel for the 4th respondent had been directed to get necessary instructions in that regard.

5.A counter affidavit had been filed on behalf of the 4th respondent, the Block Development Officer, Ooty, wherein, he had stated that an enter upon permission was granted by the 1st respondent, District Collector, Udthagamandalam at Nilgiris District under the Revamped Comprehensive School Infrastructure Development Scheme (RCSIDS) for Panchayat Union Middle School at T.R. Bazar in Naduvattam Village in New S.No.175/4 for an extent of 0.20 acres vide R.C.No.U3/9677/2018, dated 12.05.2018. The land was classified as 'Sarkar Erukuli'. The land was surveyed and handed over by the 3rd respondent, Tahsildar,



Udhagamandalam to the 4th respondent on 08.05.2019.

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6. Thereafter, an order has been passed by the Director of Rural Development & Panchayat Raj, Chennai in R.C.No.59060/2020/SSS2, dated 28.12.2020 approving the works to be taken up to the Nilgiris District under Revamped Comprehensive School Infrastructure Development Scheme (RCSIDS) for the year 2020-21. Based on the approval granted, the 1st respondent, District Collector by proceedings in RC.A5.No.1820/2020, dated 05.01.2021 had granted administrative sanction with specific conditions to execute to work. Thereafter, the Block Development Officer had passed further orders on 22.01.2021 and approval had been granted with specific conditions in accordance with the administrative sanction under Revamped Comprehensive School Infrastructure Development Scheme (RCSIDS). It had been stated that a financial outlay of Rs.38 Lakhs has also been allotted. A contractor had also been appointed and an agreement had also been entered into with an Contractor. It had been stated that the work had commenced on 10.03.2021 and on receiving a complaint, the department conducted an enquiry and further inspection was conducted by the 3rd respondent, the 4th respondent and Surveyor on 15.03.2021 in the presence of the 2nd respondent. It had also been stated that all the works had been executed till date



also with regard to the construction of additional class rooms for the Panchayat

Union Middle School under the supervision and direction of the 1st respondent.

Since further direction was sought by this Court with respect compliance of the provision under Section 58 of the Tamil Nadu Town and Country Planning Act, 1971, on behalf of the 4th respondent, documents in that regard had also been produced. The documents for administrative sanction with respect to construction of schools specifically in that particular area had also been granted on 28.12.2020 by the Director of Rural Development & Panchayat Raj, Chennai and communicated to the District Collector at Udthagamandalam.

7.Among the other guidelines, it had been stated that a test check should be done by the District level officials and 100% verification has to be done by AD/AEE (RD) level officers. The further condition was that multiple photographs indicating inner and outer view of the school building, kitchen shed/toilet should be taken and enclosed. It was also directed that if the photographs are not taken and there is non-adherence to the guidelines, then administrative sanction should not be granted by the District Collector. It was only after following all those procedures did the work commence.



8.The learned counsel for the petitioner however insisted that Rule 6(4) of the Tamil Nadu Combined Development and Building Rules, 2019 had not been followed in letter and spirit by the respondents. Rule 6(4) of the Tamil Nadu Combined Development and Building Rules, 2019 is as follows:

6. Application for Planning Permission and Building

Permit-(1)*For the purpose of obtaining planning permission or building permit, the applicant who should be the owner of the land or leaseholder or power of attorney holder who has right over the land to develop, shall submit an application on-line in the prescribed Form to the competent authority.*

.....

(4) When any department of the State government or the Central government other than those specified in sub-rule (2), intends to carry out development of any land or building, the officer in charge of the same shall apply in writing in the Form with necessary documents and plan to the competent authority and obtain clearance for the intended development complying with these rules.

9.The Rule provides for application to be made by the officers in-charge with necessary documents and plan to the competent authority and obtain clearance for the intended development. A perusal of the documents show that the



necessary sanction had been granted and guidelines have also been put in place that photographs have to be taken and clearance certificate has to be obtained and only thereafter, could the Collector grant administrative sanction. The Collector had actually granted administrative sanction and there cannot be any argument now raised that the sanction had been granted violating any of the provisions.

10.A further argument had been advanced on behalf of the petitioner complaining about violation of the Tamil Nadu Panchayats Building Rules, 1997 and in particular proviso of Rule 4. The Rule 4 of the Act is as follows:

4. Application for approval of sites for buildings and huts.-

(1) Every person who intends, to construct or reconstruct or alter or add to a building or to a hut shall submit an application to the Executive Authority for the approval of the site and for permission to execute the work, in the Form specified in Appendix-B, with such variations as circumstances may require which shall be accompanied by-

.....

[Provided that the construction or reconstruction or addition or alteration to residential houses, all such other public buildings like commercial buildings, hotels, resorts and factory buildings exceeding a plinth area of 250 square metres in the Panchayats of



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Nilgiris district shall be approved by the Executive Authority after obtaining the permission of the Committee for Architectural and Aesthetic Aspects headed by the Collector of the Nilgiris district].

11.It had been provided that where any construction or reconstruction or addition to any residential building or public building is conducted, then necessary permission of the Committee for Architectural and Aesthetic Aspects headed by the Collector of the Nilgiris District should be obtained.

12.In this case, the Collector has granted administrative sanction and the documents in that regard had also been produced. While granting permission, a stipulation had been stated that the details of the class room buildings, kitchen sheds, toilet, dining hall, water supply works as well as repair/renovation work should be communicated along with letter and a proposal should be put forward in prescribed format (1 to 6) by adhering to RCSIDS guidelines issued along with G.O.Ms.No.138, RD & PR Department, dated 19.08.2020. The Directorate of Rural Development and Panchayat Raj was conscious of the provision and had put in those specifications to the District Collector before the grant of administrative sanction. It was also stated that the technical aspects of the building should also be incorporated in the estimate before administrative sanction is granted. The type of



infrastructure work should also been indication. As a matter of fact it had been stated that the guidelines issued should be scrupulously followed before according administrative sanction. It was only after all those conditions had been satisfied did the Collector by proceedings dated 05.01.2021 granted sanction for infrastructure development, more particularly, for construction of school building at T.R. Bazar in Naduvattam Village in Uthagamandalam.

13.The learned counsel for the petitioner then pointed out Section 58 of the Tamil Nadu Town and Country Planning Act, 1971, which is as follows:

58. Development undertaken on behalf of any State Government or Central Government or local authority.- (1) When any department of any State Government or the Central Government or any local authority intends to carry out development of any land or building, the officer-in-charge thereof shall inform in writing the planning authority concerned the intention to do so, giving full particulars thereof, and accompanied by such plans and documents at least thirty days before undertaking such development:

Provided that in case where any local authority is the local planning authority under this Act, it shall inform the fact of any



such proposed development to the regional planning authority concerned within whose jurisdiction such local authority is situated.

(2) Where a planning authority concerned or the regional planning authority concerned, as the case may be, raises any objection to the proposed development on the ground that the development is not in conformity with the provisions of any development plan under preparation, or for any other material consideration, the officer of the State Government, Central Government or any local authority, as the case may be, shall---

(i) either make necessary modifications in in the proposals for development to meet, the objections raised by the planning authority concerned, or

(ii) submit the proposals for development together with the objections raised by the planning authority concerned to the Government for decision.

(3) The Government, on receipt of the proposals for development together with the objections of the planning authority concerned, shall, in consultation with the Director, either approve the proposals with or without modifications or direct the officer to make such modifications in the proposals as they consider



necessary in the circumstances and the officer concerned shall be bound to make such modifications as proposed by the Government.

14.This relates to development activity taken up by the State or Central Government or any Department with respect to putting up of construction in local panchayat. It is contended on behalf of the 4th respondent that the guidelines had been followed in letter and spirit and reliance had been placed on the administrative sanction granted initially by the Directorate of Rural Development & Panchayat Raj at Chennai with specific conditions and later by the District Collector, Udthagamandalam who also granted sanction after ensuring that all the specifications and stipulations were put in place.

15.In view of the fact that proper procedure had been followed before the construction, I hold that the relief sought by the petitioner cannot be granted. It is to be noted that the school building constructions had been completed in the year 2021 itself. Four years have now been passed by and it is only appropriate that directions are issued to the District Collector to depute a team of officials to inspect the school building to ensure that the building is in a stable condition and the students or any other person entering into the school or even the adjacent land



owners are not affected by such construction. Let the periodic inspections be conducted once every two years over the building. That safeguard alone can be placed by this Court. Once the necessary sanctions have been granted for the construction, which is a policy decision, it would be futile for the petitioner to seek interference on the part of this Court over the building which had already been constructed and is in place for the past nearly four years. Public interest also overrides private interest of the petitioner. Since the school has been constructed to provide education for children in that particular area. The guidelines as stipulated above directing the District Collector to conduct inspection once two years alone can be placed by this Court.

15.The writ petition stands disposed of. No Costs. Consequently, connected miscellaneous petitions are also closed.

09.12.2024

Index:Yes/No

Internet:Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation:Yes/No

ssr

To

1.The District Collector,



Collectorate,
Udhagamandalam, Nilgiris.

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2.The Sub Collector,
Sub Collector Office,
Udhagamandalam – 643 001.

3.The Tahsildar,
Taluk Office,
Udhagamandalam Taluk,
Nilgiris District – 643 001.

4.The Block Development Officer,
Ooty,
Udhagamandalam,
Nilgiris District.



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C.V.KARTHIKEYAN,J.

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W.P.No.26168 of 2021
and W.M.P.Nos.29239 & 27624 of 2021

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