



W.P.(MD).No.20517 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.03.2025

CORAM:

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.(MD)No.20517 of 2024

and

W.M.P.(MD)No.17420 & 17421 of 2024

Siva Nursery and Primary School,
Rep. by its Correspondent,
K.Ganapathy Subramanian.

... Petitioner

-vs-

1. The Director,
The Tamil Nadu Private Schools,
Chennai.

2. The District Education Officer (Private Schools),
Tirunelveli District,
Tirunelveli.

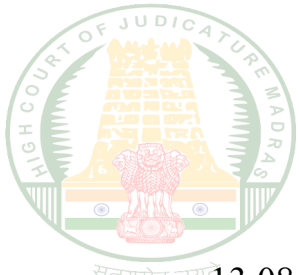
3.Salai Kumar

4.Poththaiya Muppanar

... Respondents

(R3 and R4 are impleaded vide order dated 23.09.2024 in WMP(MD)No. 19202 of 2024 and order dated 05.12.2024 in WMP(MD)No.21674 of 2024.)

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the order passed by the 1st respondent in his proceedings in Na.Ka.No. 6025/D1/2024 dated



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13.08.2024 and the consequential order passed by the 2nd respondent in his proceedings in Na.Ka.No. 1269/A1/2024 dated 19.08.2024 and quash the same as illegal.

For Petitioner : Ms.H.Jasima Yasmin

For Respondents : Mr.T.Amjad Khan (R1 & R2)

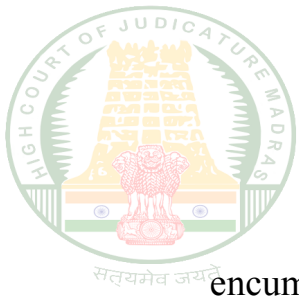
Government Advocate

Mr.Ma.Gouthaman (R3)

ORDER

This writ petition has been filed challenging the order passed by the 1st respondent in his proceedings in Na.Ka.No. 6025/D1/2024 dated 13.08.2024 and the consequential order passed by the 2nd respondent in his proceedings in Na.Ka.No. 1269/A1/2024 dated 19.08.2024.

2. The case of the petitioner is that the petitioner school was established in the year 1982 and recognition for the school was also periodically renewed till date. The land, in which the school is situated belongs to a trust and the petitioner has been regularly paying rent to the said trust. The said trust filed a suit in OS No.275 of 2022 against the third respondent herein seeking injunction restraining other trustees and the interested persons from



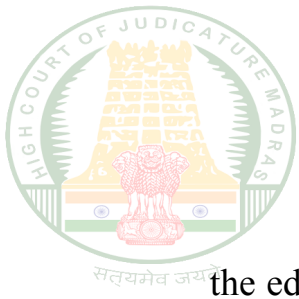
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encumbering the properties of the said trust including the school land. The petitioner has also filed a suit in OS No.292 of 2019 seeking defamation and compensation, since the third respondent had been indulging in damaging the reputation of the school. The third respondent filed a writ petition before this Court in WP(MD)No.24453 of 2022 seeking removal of the school building claiming that it is an unauthorized one. This Court granted liberty to him to work out his remedy before the pending suit.

3. The further case of the petitioner is that only at the instance of the third respondent, the second respondent issued a notice, for which the petitioner has also submitted his reply. However, the first respondent passed the impugned order directing the second respondent to withdraw the recognition granted to the petitioner school and the consequential order has also been passed by the second respondent, withdrawing the recognition granted to the petitioner school for the period from 01.06.2023 to 31.05.2026. Challenging the said orders, the present writ petition has been filed.

4. The learned counsel appearing for the petitioner submits that no opportunity of hearing was given to the petitioner school before passing the impugned order and further, the building plan approval is not necessary for



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the educational institutions, if the building is constructed prior to 01.01.2011.

Further, the school building is not in a damaged condition and if it is so, the structural soundness certificate, sanitary certificate and the licence by the authorities would not be issued and the school is in a good condition and safe for the students to continue their studies. He further submits that the District Educational Officer has also issued the proceedings dated 27.05.2024 to take action against the third respondent and his men for his illegal trespass into the petitioner's school. Hence, she prayed for setting aside the impugned orders.

5. The learned Government Advocate appearing for the official respondents, by relying upon the typed set of papers dated 18.09.2024 submits that as per Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971, newly inserted vide G.O.Ms.No.302, Housing and Urban Development Department (Amendment to Town and Country Planning Act), dated 29.12.2010, any person intending to carry out any development on any land other than planning area shall get prior permission from the local authority after obtaining concurrence of the Director and therefore, the construction of the petitioner school, is without any approval and is an unauthorized one.



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6. The learned Government Advocate appearing for the official respondents, further submits that as per Rule 38 (1) of the Tamil Nadu Private Schools (Regulation) Rules, 2023, the school building should be safe for the students. However, in the case on hand, it is not safe and as per the report of the Advocate Commissioner also, the petitioner school building is not safe and is an unauthorized one. Hence, he prayed for dismissal of this writ petition.

7. Heard the learned counsel on either side and perused the materials placed before this Court.

8. This Court, earlier appointed an Advocate Commissioner and he filed his report, which would reveal that the petitioner school has no permanent concrete roof available in the entire campus and many of the classrooms are under the single roof with no permanent partition.

9. It is relevant to extract the Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971, which reads as under:-



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“47-A. Development of land in an area other than planning area.- (1) Any person intending to carry out any development on any land other than planning area shall make an application in writing to the local authority for permission in such form and containing such particulars and accompany such documents as may be prescribed.

(2) The local authority shall before according permission under sub-section (1), shall obtain the prior concurrence of the Director and shall also collect such fees at such rate as may be prescribed:”

Thus, it is clear that as per Section 47-A of the Tamil Nadu Town and Country Planning Act, 1971, the petitioner ought to have got prior permission from the local authority for building plan after obtaining concurrence of the Director and therefore, the construction of the petitioner school is an unauthorized one. However, in the case on hand, there is no development in the school premises.

10. The petitioner school has an unauthorized construction and there is no registered lease agreement for the land, where the school is situated and there is no concrete building in the school. Hence, the prayer sought for in this writ petition cannot be considered and the same is liable to be dismissed.



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Accordingly, this writ petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

04.03.2025

NCC : Yes/No
Index : Yes / No
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TO:-

1. The Director,
The Tamil Nadu Private Schools,
Chennai.
2. The District Education Officer (Private Schools),
Tirunelveli District,
Tirunelveli.



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VIVEK KUMAR SINGH, J.

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Order made in
W.P.(MD)No.20517 of 2024

Dated:
04.03.2025