



WEB COPY

WP No. 538 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 19-01-2026**

CORAM

**THE HON'BLE MR.JUSTICE V. LAKSHMINARAYANAN**

**WP No. 538 of 2026**

K.Jothi

..Petitioner(s)

Vs

1. Assistant Director of Town Panchayat,  
District Collectorate office,  
Dharmapuri-636 705.
2. Executive Officer  
Town Panchayat Office  
Marandahalli Town and Post  
Palacode Taluk  
Dharmapuri District-636 806.

..Respondent(s)

**Prayer:** This petition has been filed under Article 226 of the Constitution of India, calling for the records in order in Na.Ka. No.596/2025/ A2 dated 22.09.2025 passed by the 2nd respondent and to quash the same as illegal and arbitrary and further direct the 2nd respondent to grant planning permission to construct commercial building as per petitioner application No. SWP/BPA/0650841/ 2025 dated 12.09.2025.

For Petitioner(s):

Ms.Z.Rifa Fathima

For Respondent(s):

Mr.L.S.M.Hasan Fizal, AGP, R1

Dr.T.Seenivasan, SGP, R2

## **ORDER**

Heard Ms.Z.Rifa Fathima for the petitioner, Mr.L.S.M.Hasan Fizal for the 1<sup>st</sup> respondent and Dr.T.Seenivasan for the 2<sup>nd</sup> respondent.



2. The petitioner proposes to put up a lodge in the property owned by him in Survey No. 90/1, Sub Division Survey No. 90/1A1A2, situated at Marandahalli Village, Palacode Taluk, Dharmapuri District. The petitioner made an application to the 2<sup>nd</sup> respondent seeking approval for construction of a building. According to the petitioner, the application that she has filed before the 2<sup>nd</sup> respondent complies with all the requirements of law. She is constrained to approach this Court on account of the fact that the 2<sup>nd</sup> respondent has directed the petitioner to comply with

- (i) the Tamil Nadu Public Buildings (Licensing) Act of 1965 as amended in the year 1972; and
- (ii) seek technical approval from the Directorate of Town and Country Planning (DTCP) before submitting the same to the 2<sup>nd</sup> respondent.

Aggrieved by the same, the petitioner is before this Court.

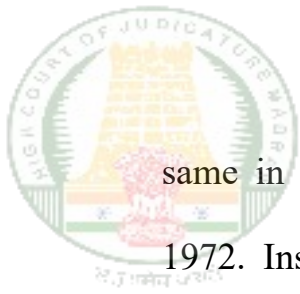
3. Mr.L.S.M.Hasan Fizal pleads, in support of the impugned order, that without the technical approval of the DTCP, the local body cannot proceed further with the application.



4. In response, Ms.Rifa Fathima invites my attention to the Circular issued by the DTCP on 20.12.2010 in Roc. No.26294/10/LA2 and points out that the DTCP had delegated the power of granting approval to the local body, if it satisfies the conditions laid therein. According to her, the construction that the petitioner intends to put up is a commercial building of less than 15 meters in height and less than 2500 square meters in extent. Hence, she pleads that the 2<sup>nd</sup> respondent is the competent authority, who should take a call on the application, and not the 1<sup>st</sup> respondent.

5. I have carefully considered the submissions of both sides and gone through the records.

6. The petitioner is admittedly the owner of the aforesaid property. She intends to put up a commercial complex. The extent of approval that she seeks for, as it is clear from page No.38 of the typed set of papers, is 585.93 square meters. This is obviously less than 2500 square meters. In terms of the Circular referred to by Ms.Rifa Fathima, the power to issue planning permission and technical clearance for property set forth in the Circular lies with the local bodies. Hence, the impugned order calling upon the petitioner to approach the Directorate of Town and Country planning for approval suffers from non-application of mind. The 2<sup>nd</sup> respondent ought to have taken note of the Circular issued by the DTCP, which has delegated the power on him to consider the



same in accordance with the Tamil Nadu Town and Country Planning Act, 1972. Instead, he has pushed the petitioner to the Directorate of Town and Country Planning.

7. The second ground on which the application has not been considered is that the building is covered under the Tamil Nadu Public Buildings (Licensing) Act, 1965 as amended in the year 1972. The owner of a building, in order to classify the building as a public building, as understood under Section 2(a) of the 1965 legislation, has to file an application to the competent authority after the construction is over. The owner cannot make an application under the aforesaid legislation even before the construction is completed. This is clear from a perusal of Sections 4 and 5 of the 1965 Act. Under these two provisions, the owner would have to enclose the structural engineer's certificate or if it is not so enclosed, the competent authority should get an opinion of a structural engineer that the building is fit enough to be certified as a 'public building'. The perusal of the 1965 legislation presupposed the existence of a superstructure before a license for a public building is granted. In the present case, the superstructure is yet to be put up. Therefore, calling upon the petitioner to apply to the competent authority to get a license for a public building is another ground, which makes the order liable to be quashed.

8. In the light of the above discussion, the writ petition succeeds. The



impugned order is quashed. The permission application in

SWP/BPA/0650841/2025 dated 12.09.2025 stands restored on to the file of the

2<sup>nd</sup> respondent. The 2<sup>nd</sup> respondent shall apply the Circular in Roc.No.26294/10

LA2 dated 20.12.2010 and consider the application afresh. The reason that a

public building license must be obtained cannot be given as a ground to reject

the application. No costs.

**19-01-2026**

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation: Yes/No

*Maya*

To

1. Assistant Director of Town Panchayat,  
District Collectorate office,  
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**V.LAKSHMINARAYANAN, J.**

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