



W.P.(MD)No.3062 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **01.04.2026**

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR
AND
THE HONOURABLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.3062 of 2025
and W.M.P.(MD)Nos.2134 & 2135 of 2025

Solamalai College of Engineering,
Rep. by its Chairman,
Veerapanchan Village,
Madurai East Taluk,
Madurai.

... Petitioner

Vs.

1. The Director of Town and Country Planning,
Directorate of Town and Country Planning,
CMDA Office Complex, E and C Market Road,
Srinivasa Nagar, Virugambakkam,
Koyambedu, Chennai.
2. The District Collector,
O/o. the District Collectorate,
Madurai District,
Madurai.
3. The Assistant Director / Member Secretary,
District Town and Country Planning Office,
Madurai District.
4. The Thindiyur Village Panchayat,
Rep. by its President,



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Madurai East Panchayat Union,
Madurai.

... Respondents

PRAYER:- Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records relating to the order passed by the respondents 2 and 3 vide his proceedings in Na.Ka.No. 1414/2012/Mathi.2 dated 15.04.2015 and quash the same as illegal.

For Petitioner : Mr.G.Prabhu Rajadurai,
for M/s.Ajmal Associates

For Respondents : Mr.S.P.Maharajan,
Spl. Govt. Pleader

ORDER

(Order of the Court was made by **N.SATHISH KUMAR, J.**)

This Writ Petition has been filed challenging the impugned order dated 15.04.2015, wherein the third respondent held that, since there was no building plan permission as required under Section 49 of the Tamil Nadu Town and Country Planning Act, 1971 (hereinafter referred to as “the Act”), the entire construction is deemed to be unauthorized. Therefore, the two rooms, namely the office room and the principal room, have been locked and sealed.



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2. The main contention of the learned counsel appearing for the petitioner is that, as per the law declared by this Court, once planning permission is granted by the local authorities, permission under Section 49 of the Act is not required. He further submits that even in the counter-affidavit filed by the third respondent, the position of law declared by this Court has been clearly admitted. Therefore, the impugned order is not in accordance with the law, and the respondents cannot issue such an impugned order.

3. The learned Special Government Pleader appearing for the respondents submits that the impugned order was passed in 2015, whereas the Writ Petition was filed in 2025. Therefore, the Writ Petition itself is liable to be dismissed on the ground of laches.

4. This Court heard the submissions made by both sides and also perused the materials available on record.

5. It is not in dispute between the parties that planning permission was originally granted by the local authority. The question that arises is whether once planning permission has been granted by the



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local authorities, a separate permission under the Act is required. This issue is no longer res-integra. It has already been decided by the Division Bench of this Court in ***Tamil Nadu Unaided Polytechnic Management Association v. State of Tamil Nadu***, reported in **2018 (4) CTC 129**, wherein the Division Bench, while summarizing its decision, held as follows:

“44. To sum up the decision of this Court on this aspect:

a) There shall be only one window where applications for constructions, alteration of all public buildings in the Panchayat must be made, and this will be the Executive Authority of the Panchayat. There is no need for a person to apply for permission for a construction within the Panchayat to the Town Planning Authority under Sec.49 of the TCP Act.

b) The Executive Authority shall engage in a consultative process with the Joint Director or Deputy Director, Town and Country Planning providing the latter with all necessary materials and particulars for the latter to form his opinion and advice.

c) The Joint Director or Deputy director of Town Planning shall then proceed to offer their meaningful opinions and advice by employing the same parameters that



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they would have adopted if the applications were made under Sec.49 of the TCP Act.

d) To ensure fairness and transparency in the consultation process between the Executive Authority and the Town Planning Authority, the same shall take place only in writing. Oral consultation is not permitted as it has the potential to hijack the object of self-governance for purposes that may not have been in the contemplation of the Parliament.

e) If the Executive Authority of the Panchayat decides to override or supersede the opinions/advice of the Joint Director or the Deputy director of Town and Country Planning, then it can be done only on grounds of weighty and justifiable reasons of greater quality.

f) If the Executive Authority finds any arbitrariness or lack of inadequate application of mind by the consultee, namely the Joint Director or the Deputy Director of Town and Country Planning, it is no reason for the Executive Authority of the Panchayat to supersede such opinions of the consultee Authorities of the TCP Act. In all such instances, the Executive Authority of the Panchayat shall return the opinion received to the consultee Authorities, drawing their attention to the specific aspect/aspects where the former considers the opinion/advice as incomplete or inadequate, with a copy addressed to the Director of Town



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and Country Planning.

.....

46. In cases, which may include the petitioners herein, where the Executive Authority of the Panchayat might not have consulted either the Joint Director or the Deputy Director of Town and Country Planning before granting permission for construction of public buildings, this Court declares:

(a) In all such cases, the Executive Authority is directed to forward the papers to the Town Planning Authority, who may now consider them, and if required visit the premises in question, and offer his advice if the constructions have complied with all necessary statutory Rules and Regulations, and the latter shall forward his views or opinions to the Executive Authority. If opinions offered are positive, in that if the constructions are found to have complied with the Rules and Regulations and such other legal requirements, then the Executive Authority shall issue an order ratifying his earlier order granting his permission. This will apply only to those public buildings in the Panchayat area constructed after the coming into force of the Tamil Nadu Panchayat Building Rules, 1997 till today, the date of this Order, and not to any future application for constructions.

(b) Where any permission has been granted by the Executive Authority of the Panchayat without consulting the joint or Deputy Director of Panchayat in terms of Proviso to



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Rule 25, but no construction has yet commenced, it shall not be commenced, till opinion of the Town Planning Authority is obtained. If the opinion is not negative, then the earlier permission granted shall, subject to other provisions of law, remain in force. If the opinion of the Town Planning Authority is negative, the Executive Authority of the Panchayat shall forthwith cancel the permission earlier granted after following the due process of law.

(c) In cases of partially constructed buildings, no completion certificate or other amenities be provided unless a favourable opinion is given by the Town Planning Authority.

(d) In all cases falling under (a) and (c), if the opinion of the Town Planning Authority is negative, then such authorities as are empowered to initiate action for illegal constructions shall initiate appropriate actions as per law. The power to grant sanction for construction by the Panchayat is no answer to a builder or a developer violating Rules and Regulations pertaining to construction activities.

47. In conclusion, this Court holds that (a) neither Section 49 nor Section 111(3)(b) of the Tamil Nadu Town and Country Planning Act is unconstitutional; (b) Sec. 111(3)(b) of the TCP Act, to the extent it relates to constructions made without permission under Sec.49 of the TCP Act after the commencement of Tamil Nadu Panchayat



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Building Rules, 1997, is declared inoperable, and accordingly, subject to the declaration/directions given in paragraphs 44 and 46, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.”

6. Therefore, as per the above decision, there is no requirement for a person to apply for permission for construction within a Panchayat to the Town Planning Authority under Section 49 of the Act. It is only the Executive Authority shall engage in a consultative process with the Joint Director or Deputy Director of Town and Country Planning, by providing the latter with all necessary materials and particulars to enable them to form their opinion and render advice.

7. The Division Bench of this Court has also taken note of the fact that, where planning permission has already been granted without consultation with the Executive Authority, the Executive Authority is directed to forward the papers to the Town Planning Authority, who may then consider the same and, if required, visit the premises in question and offer its advice as to whether the construction complies with all necessary statutory rules and regulations.



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8. Admittedly, in the present case, planning permission has been granted by the local authority. However, there has been no consultation with the fourth respondent. In view of the above, paragraph 46(a) of the judgment of the Division Bench of this Court squarely applies to the present case. Therefore, for any further action, it is for the authorities to inspect the building, and if any violation is found, they may initiate appropriate action in accordance with law. The impugned order does not indicate that any such inspection was conducted prior to the passing of the same. On the contrary, the impugned order appears to have been passed solely on the ground that permission under Section 49 of the Act had not been obtained.

9. In view of the above, the impugned order cannot be sustained in the eye of law. Though there is laches on the part of the petitioner, no further action can be pursued based on the impugned order. However, liberty is granted to the fourth respondent to inspect the premises, and if any violation is found in terms of the Planning and Development Regulations, 2001, it is open to them to initiate appropriate action and pass orders in accordance with law.



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10. With the above observations and directions, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
01.04.2026

Index :Yes/No
NCC :Yes/No
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