

(2014) 12 MAD CK 0257

In the Madras High Court

Case No : Writ Petition No. 32482 of 2014 and M.P. No. 1 of 2014

M.A.S. Subbiah Chettiar Educational Charitable Trust

APPELLANT

Vs

The Commissioner

RESPONDENT

Date of Decision : 11-12-2014

Acts Referred:

Citation : (2014) 12 MAD CK 0257

Hon'ble Judges : P.R. Shivakumar, J;N. Paul Vasantha Kumar, J

Bench : Division Bench

Judgement

N. Paul Vasantha Kumar, J.

1. Mrs. A. Shrijayanthi, learned Special Government Pleader takes notice for the respondents. By consent, the main writ petition itself is taken up for final disposal.

2. This writ petition is filed challenging the notice dated 30.8.2012 calling for MASS Polytechnic, Kallapuliur village, Kumbakonam Taluk, Tanjore District to stop the unauthorised construction put up by them and apply for approval from the competent authority under Tamil Nadu Town and Country Planning Act, 1971 within thirty days, failing which, the buildings will be locked and sealed.

3. The grievance of the petitioner Trust is that they are running a Polytechnic College in the name and style of MASS Polytechnic College at Kallapuliur village, Kumbakonam Taluk, Tanjore District and only after obtaining planning approval and building permission from the 3rd respondent they had constructed buildings and the Polytechnic College was started during the academic year 2007-2008 at the said buildings. On 30.8.2012, the 2nd respondent issued a notice stating that the buildings of MASS Polytechnic College were constructed without approval of the 2nd respondent and therefore, lock and seal process would be initiated against the said buildings. After issuing notice dated 30.8.2012, there was no communication from the 2nd respondent and the petitioner Trust thought that all are going well in respect of the buildings constructed by the petitioner after

obtaining building approval. But all of a sudden, the officials of the 2nd respondent approached the petitioner's Management and informed orally that coercive action would be initiated against the Management of the petitioner and the educational institution, namely MASS Polytechnic College located in the said buildings, including lock and demolition. Hence, the petitioner Trust has filed this writ petition with the above said prayer.

4. The learned Counsel appearing for the petitioner submitted that the petitioner/educational institution-MASS Polytechnic College is having approved plan granted by the competent authority/local body and based on the approved plan only, the buildings were constructed. The learned counsel also relied on the Division Bench judgment of Madurai Bench reported in The District Collector/Chairman, The Director/Commissioner and The Member Secretary Vs. Danial Thangaraj and The Corporation Commissioner, as well as the order of the learned Single Judge reported in Apesh Construction Limited Vs. The Corporation of Madurai and Madurai Local Planning Authority, and an unreported judgment in W.P.No. 11031 of 2011, dated 15.6.2012 and the judgment of the Division Bench of this Court in W.P.Nos. 23267 to 23269 of 2014, dated 27.8.2014 in support of his contentions.

5. Since the petitioner/educational institution is contending that they have obtained the approved plan from the competent authority and the buildings were constructed as per the approved plan, it is open to the petitioner/educational institution to submit their objection/representation about the impugned order dated 30.8.2012 to the 2nd respondent. The Deputy Director of Town and Country Planning, Thanjavur Region is directed to get a clarification from the Commissioner/Director of the Town and Country Planning, Chennai-600 002, who is bound to clarify, to take further action in the matter. After receiving the said clarification, the Deputy Director of Town and Country Planning, Thanjavur is directed to pass a speaking order in accordance with law, within a period of four weeks from the date of receipt of the said clarification. The petitioner/educational institution is permitted to submit its objection/representation, within a period of one week from the date of receipt of a copy of this order. Till fresh orders are passed by the Deputy Director of the Thanjavur Region as stated supra, status-quo as on today, in respect of the buildings of the petitioner/educational institution, namely MASS Polytechnic College, Kallapuliyur Village, Kumbakonam Taluk, Tanjore District shall be maintained by both the parties.

6. The writ petition is disposed of with the above direction. No costs. Consequently, M.P.No. 1 of 2014 is closed.