

Block Development Officer Vs. Government Aided Elementary Schools

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Court : Chennai

Decided On : Aug-26-2013

Judge : The Hon'Ble Mrs.Justice R.Banumathi

Appellant : Block Development Officer

Respondent : Government Aided Elementary Schools

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS DATED :

26. 08/2013 Coram The HON'BLE MRS.JUSTICE R.BANUMATHI and The HON'BLE MR.JUSTICE T.S.SIVAGNANAM W.A. No.561 of 2007 & M.P. No.1 of 2007 The Block Development Officer Mangalore Panchayat Unit Manalore, Cuddalore District. .. Appellant -vs- 1. The Government Aided Elementary Schools Vagaiyur Village, Thittagudi Taluk Cuddalore District. Rep. By its Manager P.Kanagamani 2. The Director of Elementary Education College Road, Nungambakkam, Chennai 6.

3. The District Collector Cuddalore District, Cuddalore.

4. The District Elementary Educational Officer Manjakuppam Cuddalore-1.

5. The Assistant Elementary Educational Officer Mangalore Unit at Ramanatham, Cuddalore 1. .. Respondents PRAYER : Writ Appeal filed under Clause 15 of the Letters Patent Act, against the order of this Court dated 27.11.2006 made in

W.P.No.24573 of 2005. For Appellant : Mr.V.R.Thangavelu For Respondents : No appearance R1 Mr.K.Karthikeyan, G.A.-R2 to 5

JUDGMENT

(Judgment of the Court was made by R.Banumathi, J.) Being aggrieved by the order in W.P.No.22573 of 2005, dated 27.11.2006, directing the appellant and the educational authorities to permit the first respondent to run the school continuously in the newly constructed school building in the land at Survey No.45/2, Vagaiyur Village, Thittagudi Taluk, Cuddalore District and the Block Development Officer has preferred this Writ Appeal. 2.The Writ Petition has been filed for a mandamus seeking for a direction to run the school continuously in the newly constructed school building in the land in Survey No.45/2, Vagaiyur village, Thittagudi Taluk, Cuddalore District, which is described as Government poromboke in the Revenue Records. 3.The case of first respondent is that they are running the school from 4.8.1948 and after the tragic incident at Kumbakonam, the Government directed all the Government Schools and Aided Schools to remove the thatched sheds and put concrete roof. Since the first respondent did not have the funds to put up concrete roof, the first respondent passed a resolution on 13.8.2004, requesting the State Government to take over the Management of the school by expressing their inability for construction of the new building and in this regard a letter was also addressed to the Director of Elementary Education on 20.8.2004, for taking over the Management of the School. 4.Subsequently, the School was shifted to community hall and from out of Member of Parliament Local Authority Development School 2004-05, the administrative sanction was granted by the District Collector on 1.9.2004, the school building was constructed by the order of the Collector and the school was run by the Panchayat Union. It was thereafter, the first respondent made a representation dated 29.12.2004, withdrawing the earlier letter dated 20.8.2004 and to permit the petitioner to run the School in the newly constructed building and also to fill up the existing vacancies to the post of Headmaster and Assistant Teacher. 5.According to the first respondent, the Government was called upon to give consent pursuant to the order dated 17.9.2004 for construction of the building in survey No.45/2 to an extent of 0.15 cents in Vagaiyur village, and the petitioner has also executed an agreement on

31.2.2004, for construction of the School building. The further case of the first respondent is that since the petitioner was running the school from 4.8.1948, he has to be permitted to run the School in the newly constructed building. 6.Refuting the claim of the first respondent, the appellant and official respondents 2 to 5 have filed a counter stating that after the petitioner had submitted a representation on 20.8.2004, requesting the Government to take over the Management of the School, on 8.10.2004, the Village Panchayat was constituted and a resolution was passed to submit a proposal to the Director of Elementary Education, so as to form a new Panchayat Union School in the said village in Survey No.45/2, which is a Government Poramboke land and to provide building and infrastructure from the MPLAD scheme. According to the Department, the Assistant Elementary Educational Officer after the consent on 28.2.2005, recommended the proposal to the District Elementary Educational Officer for granting permission for establishment of the Panchayat Union School to accommodate more than 150 students. The building was constructed and the Panchayat Union School was running in the said building constructed in Survey No.45/2 and only after noticing the development, the first respondent had sent a letter dated 29.12.2004, withdrawing their earlier letter dated 20.8.2004, to take over the Management of the School and to permit them to run the school in the newly constructed building. According to the appellant and other official respondents, since the building was constructed in the Government poramboke land and from and out of MPLAD scheme, the first respondent has no right to take over the Management of the School and the writ petition is a vexatious one. 7.The learned single Judge allowed the writ petition by directing the appellant and the other official respondents to permit the first respondent to shift the school as per recommendation of the Assistant Elementary Educational Officer dated 10.1.2005, to the newly constructed premises in survey No.45/2 from the academic year 2006-07. 8.The appellant is represented by Mr.V.R.Thangavelu, learned counsel. Notice sent to the first respondent was returned with endorsement 'died'. Since the writ appeal is pending from 2007 and since the appeal is pertaining to the Panchayat Union School, we have considered the matter on merits and also perused the averments in the Petition and also in the counter affidavit. 9.After the tragic incident in Kumbakonam, when the Government directed all the Government Schools as well

as the Aided Schools to remove the thatched sheet and put up a regular construction, the first respondent did not have the financial resources to put up construction and therefore, they have submitted a representation dated 20.8.2004, wherein they have stated that they could not run the school for want of financial resources and therefore they could not construct the building as per the requirement of the Tamil Nadu Primary Schools (Regulation) Act. Thus, the first respondent has voluntarily come forward to handover the School to the Government. 10. Keeping in view the interest of the villagers and the school going children in the village, the Village Panchayat was constituted, and the people of the villagers have agreed to purchase the requirements like furniture for the said school at their own cost and the fund was mobilised from the source of Member of Parliament Local Authority Development Scheme, by proceedings dated 28.2.2005. The Assistant Elementary Educational Officer has also recommended a proposal to the Director of Elementary Education for granting permission for establishment of Panchayat Union School. In the said proceedings, it was mentioned that the building construction was nearing completion and it can accommodate more than 150 students. 11. The Panchayat Union School has been established by the order of the Director of Elementary Education, vide order dated 1.12.2005 in proceedings No.Na.No.1193/K4/2004, and the school had been functioning in the said newly constructed building in survey No.45/2, which is classified as Government Porambokke land. When the School building has been constructed from and out of the funds raised from the MPLAD Scheme and the villagers have also contributed infrastructure, the first respondent cannot seek for any right to run the school. The learned single Judge did not keep in view the various proceedings of the official respondents 2 to 5 and also the letter of the first respondent dated 20.8.2004, wherein the first respondent has stated about their inefficiency to meet the education of the children. The learned single Judge has referred to the proceedings of the Assistant Elementary Educational Officer dated 10.1.2005, as if the Assistant Elementary Educational Officer has permitted the first respondent to reshift the school from rented premises to the newly constructed school building. The learned counsel for the appellant pointed out that there is no proceedings issued by the Assistant Elementary Educational Officer dated 10.1.2005, but it is a representation given by the first respondent to the

Director of Elementary Education. Therefore, it is submitted that there is no recommendation made by any authority permitting the first respondent to reshift the school to newly constructed school building. In various proceedings of the appellant as well as the official respondents 2 to 4, it is clearly pointed out that the first respondent has not produced any evidence to show that the land is owned by the first respondent.

12. Per contra, it was pointed out that the Survey No.45/2, where the newly construction was classified as Government poramboke. When the land is classified as Government poramboke and the school building was constructed from and out of MPLAD scheme, the first respondent has no right to claim the right to run the school. The order of the learned single Judge cannot be sustained and is liable to be interfered with. Eventhough the first respondent died, since there is no vested right with the first respondent, the question of bringing the legal representatives on record does not occur. Further more, the School is being run by Village Panchayat from 2005, till date. 13. For all the above reasons, the Writ Appeal is allowed. No costs. Consequently, connected Miscellaneous Petition is closed. rpa To 1. Mrs.P.Kanagamani Manager, The Government Aided Elementary Schools Vagaiyur Village, Thittagudi Taluk, Cuddalaore District.

2. The Director of Elementary Education College Road, Nungambakkam, Chennai 6.

3. The District Collector Cuddalore District, Cuddalore.

4. The District Elementary Educational Officer Manjakuppam Cuddalore-1.

5. The Assistant Elementary Educational Officer Mangalore Unit at Ramanatham, Cuddalore 1

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