

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.05.2018

CORAM

THE HONOURABLE MR. JUSTICE S. BASKARAN

Writ Petition No.12998 of 2018

and

WMP.No.15267 of 2018

Mahatma Gandhi Medical College and Research Institute,
A Constituent Medical College of Sri Balaji Vidyapeeth
(Deemed to be University) rep. by its Legal Officer and
Head (HR) Mr.Ralph Alexander Matthews,
Puducherry-Cuddalore Main Road,
Pillaiyarkuppam, Puducherry - 607 402.

... Petitioner

Vs.

1.The Chief Secretary,
Government of Puducherry,
Puducherry Secretariat, Goubert Avenue,
Puducherry - 605 001.

2.The Secretary to Government (Local Administration)
Government of Puducherry, Goubert Avenue,
Puducherry - 605 001.

3.The Town Planner,
Department of Town and Country Planning,
Jawahar Nagar, Boomanipet,
Government of Puducherry, Puducherry.

4.The Member Secretary,
Puducherry Planning Authority,
Jawahar Nagar, Boomanipet,
Government of Puducherry, Puducherry.

5.The Commissioner, Bahoor Commune Panchayat
Bahoor, Government of Puducherry,
Puducherry.

... Respondents

Prayer:- Writ petition has been filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, directing the respondents to call for the records relating to the Order No.375/TCP/Board/JTP(Dev)/2016/508 dated 03.03.2016 which is still in force as the said order has not been re-called or rescinded till date and consequently to direct the respondents to De-seal the buildings which were sealed by the 2nd to 5th respondents dated 30.07.2017.

For Petitioner : M/s.T.Ravichandran

For Respondents : M/s.J.Kumaran
Government Advocate
(Puducherry) for R1 to R4.

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ORDER

The relief sought for in this writ petition is for a direction to the respondents to call for the records relating to the Order No.375/TCP/ Board/JTP(Dev)/2016/508 dated 03.03.2016 which

is still in force as the said order has not been re-called or rescinded till date and consequently to direct the respondents to De-seal the buildings which were sealed by the 2nd to 5th respondents dated 30.07.2017.

2. The learned counsel appearing for the petitioner submitted that inspite of earlier orders of this Court, the respondents have not de-sealed the buildings and permitted the petitioner to use the same. It is apparent from the order passed by this Court on 24.01.2018 in Contempt Petition No. 1483 of 2017 in W.P. No. 1660 of 2017 that the respondent therein was directed to permit the petitioner to use the abovesaid buildings, subject to the result of the final decision that will be taken by the first respondent in the writ petition. Since there was no impediment to accept the request of the petitioner, the above order was passed, taking note of the fact that the auditorium and two hostels as mentioned above are merely lying vacant for a long time and that proposal has been sent by the respondent after receiving the necessary No Objection Certificates from

various departments. Now the Petitioner states that they are going to conduct various Medical conferences and hence sought for desealing of the entire premises.

3. The learned Government Advocate (Puducherry) appearing for the Respondents 1 to 4 represented that the buildings in question was sealed by the Puducherry Planning Authority as they are unauthorised constructions and on the ground that they are encroaching the canals/Government Poramboke lands. As such, the Puducherry Planning Authority will not be in a position to issue Building Planning Permission for buildings unless No Objection Certificate is issued by the concerned Bahoor Commune Panchayat. Thus, the Government Advocate (Puducherry) for the respondents 1 to 4 sought for dismissal of the Petition.

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4. I have considered the submission made by the learned counsel for the Petitioner and the learned Government Advocate (Puducherry) and perused the order of this court passed in

Contempt Petition No.1483 of 2017 dated 24.01.2018, wherein, in paragraphs 5, 6 and 7, it is held as follows:-

" 5. Learned Government Pleader appearing for the respondent submitted that subject to conditions that this court may impose, the request of the Petitioner can be considered which will be subject to the result of the final order to be passed by the Government.

6. Taking note of the fact that the auditorium and two hostels as mentioned above are merely lying vacant for a long time and that proposal has been sent by the respondent after receiving the necessary No Objection Certificate from the various departments, this court finds no impediment to accept the request of the Petitioner.

7. Accordingly, the respondents are hereby directed to permit the petitioner to use the abovesaid buildings, subject to the result of the final decision that will be taken by the first respondent in the writ petition. With the above observation and direction, this contempt petition is closed. "

5. There is already a direction passed by this court in the Contempt Petition No.1483 of 2017 by order dated 24.01.2018. It is apparent that there is already a direction given by this court to desal the auditorium and hostel building to enable the petitioner to use them. The grievance of the Writ Petitioner is that subsequently representations dated 13.02.2018, 02.04.2018 and 12.04.2018 are given seeking to desal the building and the same was not considered till date and it will be suffice if a direction is issued to consider those representations. Therefore, considering the submission made by the learned counsel for the Petitioner, the respondents are directed to consider the representation dated 13.02.2018, 02.04.2018 and 12.04.2018 given by the Petitioner in this regard in the light of the above referred order dated 24.01.2018 passed by this court in Contempt Petition No.1483 of 2017 and pass orders in accordance with law within a period of four weeks from the date of receipt of a copy of this order.

6. The Writ Petition is disposed of, with the above observation. No costs. Consequently connected miscellaneous Petition is closed.

31.05.2018

Index: Yes/ No

Speaking Order/ Non-speaking order

avr/nvsri

Note to Office: Issue order copy on 01.06.2018.

To

1.The Chief Secretary,
Government of Puducherry,
Puducherry Secretariat, Goubert Avenue,
Puducherry - 605 001.

2.The Secretary to Government (Local Administration)
Government of Puducherry, Goubert Avenue,
Puducherry - 605 001.

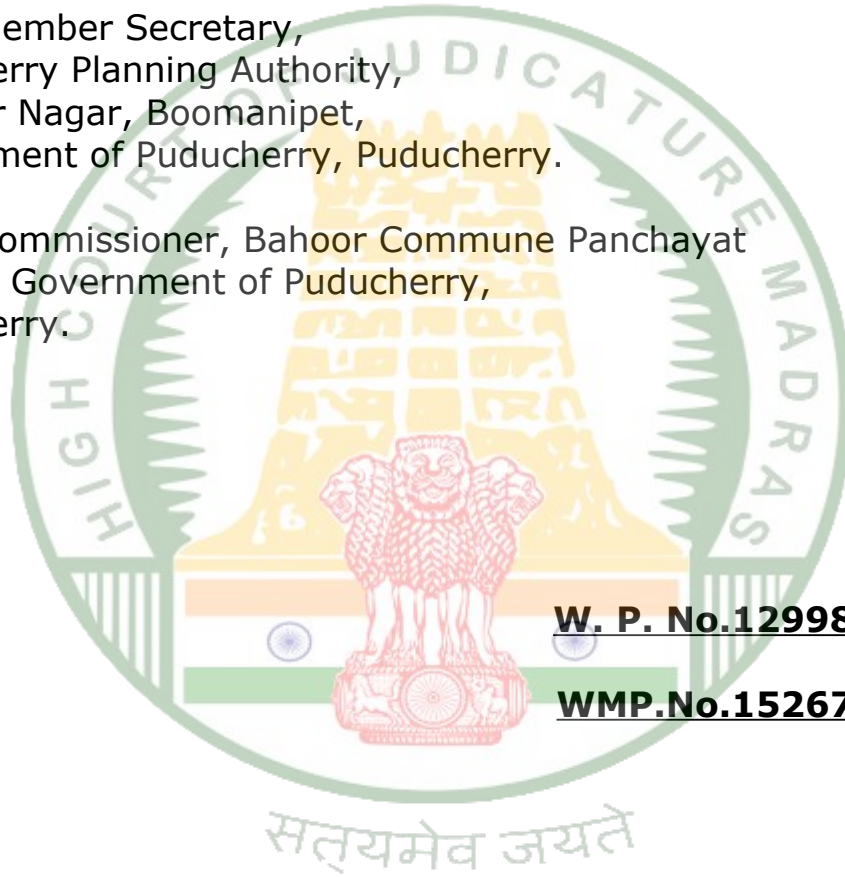
3.The Town Planner,
Department of Town and Country Planning,
Jawahar Nagar, Boomanipet,
Government of Puducherry, Puducherry.

S. BASKARAN.J.

avr/ nvsri

4.The Member Secretary,
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