



W.P(MD).No.27891 of 2022

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 20.02.2026

ORDER PRONOUNCED ON : 04.03.2026

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD).No.27891 of 2022

P.Gunasekaran
Proprietor Thirumalai Associates
Office No.5537, Thirumalai Complex
South 4th Street
Pudukkottai

....Petitioner

Vs

1.The Superintendent of Engineer
Tamil Nadu Water Board
Trichy-Pudukkottai Circle
No.35, J.K.Nagar
EVR College Back Side
Kaja Malai Post
Trichy 620 023

2.The Executive Engineer
Tamil Nadu Water Board
RWS Division
TS No.5711 Second Floor
2nd Street Santhanathapuram
Pudukkottai

3.The Assistant Executive Engineer
Tamil Nadu Water Board
RWS Sub Division
46, Old Hospital Road, A.A.Complex
Near Indian Bank
Aranthangi, Pudukkottai District 614 616

.....Respondents



W.P(MD).No.27891 of 2022

Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the second respondent in K.No. 311022/Ko.Podhu/Mu.Va.A/2022 dated 01.11.2022 and quash the same as illegal and consequently direct the second respondent to disburse sum of Rs.33,36,421/- towards total bill raised by the petitioner.

For Petitioner : Mr.A.Arul Jenifer

For Respondents :Mr.B.Vijay Karthikeyan
for R1 to R3

ORDER

The present writ petition has been filed by a TWAD Board contractor challenging the order passed by the second respondent herein wherein the request of the petitioner for clearing the bill amount of Rs.33,36,421/- has been rejected.

(A).Submissions of the learned counsel appearing on either side:

2.It is the contention of the petitioner that the entire work in the third bore point is completed except the final flushing work. The petitioner further submits that the flushing work was also completed using the compressor and the same was reported to the department along with appropriate photographs. Therefore, it is an admitted case that the third borewell points were drilled by the petitioner on the basis of the work order has been completed and there is



W.P(MD).No.27891 of 2022

no dispute whatsoever.

WEB COPY

3.The learned counsel appearing for the petitioner relied upon the information furnished under RTI Act on 14.10.2022 to contend that the work order undergone in the third location has been entered into in 'M Book'. The learned counsel had further submitted that as per the break up details furnished by the second respondent on 29.11.2021, specific amount has been allotted for each level of the work. Except flushing of the fresh water other works were completed, thus up to the said level, the amount should have been disbursed. The cost of compressor work is only a sum of Rs.18,111/-. In order to purchase peace, the petitioner is ready to give up the said amount, the balance could be disbursed by the respondents. He further submitted that similar contracts that were carried out in Nagapattinam District for TWAD, after materials have reached the spot, 75% is paid and after erection, 90% is being paid. Therefore, the said procedure has to be followed by the respondents herein.

4.The learned counsel for the respondents submit that the petitioner is a Class-I contractor registered with TWAD Board. He participated in a tender for drilling borewell in Kannurmukkam, Avudayar Kovil Taluk, Pudukkottai District. He was issued a work order on 29.11.2021. As per his work order, the work has to be commenced within a period of three days from the work order and the work has to be completed within a period of 15 days from the



W.P(MD).No.27891 of 2022

date of commencement.

WEB COPY

5.It is admitted on either side that the location of the borewell has to identified after conducting Geophysical survey by Assistant Hydro Geologist and Deputy Hydro Geologist of TWAD Department. The petitioner had commenced the drilling work on 06.01.2022 at Kannurmukkam as recommended by the Assistant Hydro Geologist of TWAD Board. Though the recommendation depth is 360 meters, after reaching a depth of 180 meters, the labourers had taken leave for celebrating pongal holidays and they did not restart the work. Thereafter, due to mud clogging and sediment blockage, further drill became impossible.

6.The petitioner had made a request for an alternative place and it was selected by Assistant Hydro Geologist/ Deputy Hydro Geologist of TWAD Board. When the drilling work had reached 330 m, the petitioner had erected the pipes up to 275 m. and later mud seeped in the drill hold and blocked the borewell. Therefore, the said drilling could not be completed.

7.The petitioner had made a request for third place and it was chosen by Hydro Geologist of TWAD Board. The drilling work had started on 25.04.2022 and reached a depth of 340 m. and pipes were also erected on 12.05.2022.

8. At this stage, it is alleged by the respondents that while flushing the water, mud and slushy soil came out from the borewell and flushing rod got



W.P(MD).No.27891 of 2022

struck and could not go deep, up to the required depth. Thereafter, the petitioner had stopped the work and informed the officials that flushing will be completed after drying of mud and slushy soil.

9.It is the allegation of the respondent that the petitioner had not completed flushing and he had left the work incomplete. It is further contended by the respondents that TWAD had made repeated request to the petitioner to complete the work and handover the borewell. However, the petitioner had started to claim the bill for the borewell. Therefore, the authorities have refused to release the bill amount.

10.Heard both sides and perused the material records.

(B).Discussion:

11.It is the contention of the petitioner that he had completed the entire work including flushing of the borewell. However, the respondents relied upon the notices issued to the petitioner on 25.03.2022, 01.06.2022, 13.05.2022, 22.07.2022, 05.08.2022 and 26.09.2022 and the final notice dated 25.10.2022 to contend that several notices have been issued for not completing the work. The work order has been cancelled on 01.11.2022. The present writ petition has been filed on 08.12.2022.

12.According to the petitioner, he has addressed letters contending that he had completed the work. However, a perusal of the letters reveal that the petitioner sent letters time and again only demanding part payment. On



W.P(MD).No.27891 of 2022

13.06.2022, TWAD Board has specifically directed the petitioner to get a completion certificate from the third respondent. For the said letter, there is no response from the petitioner, but he had again demanded part payment. Thereafter, the present impugned order has been passed on 01.11.2022 cancelling the work order and the agreement, after forfeiting the EMD amount.

13.The contention raised on either parties which have been narrated above will clearly indicate that there is serious dispute whether the petitioner has completed the work or not. Unless the petitioner is able to establish the fact that he had completed the work, he would not be entitled to claim the total amount. That apart, the petitioner had raised the claim not only for the drilling of the borewell in the third location, but also for the first and second location which were not successful. Whether the failed attempts would also attract the payment by TWAD or not is not clear from the work order. A copy of the agreement said to have been entered into between the parties has not been enclosed.

14.Though the petitioner claims payment up to the level of success, nothing has been placed on record to show that the payment could be made up to the level of success. It is the contention of the TWAD Board that after the petitioner has left the work abruptly, another contractor was engaged and payments were made to him on successful completion of the work. In such



W.P(MD).No.27891 of 2022

circumstances, it is not clear whether the third party had undertaken drilling work in the same third location or in different location and payments were made to him.

(C).Conclusion:

15.In view of the above said disputed facts, this Court is not inclined to invoke Article 226 of Constitution of India either to set aside the cancellation of the work order or to direct the payment of the total amount to the writ petitioner. The petitioner has to work out his remedy for recovery of the bill amount only before the competent civil Court. The period spent between 08.12.2022 and the date of disposal of the writ petition could be excluded for calculating the period of limitation for filing a suit.

16.With the above said observations and liberty to the writ petitioner to file a civil suit, this writ petition stands disposed of. No costs.

04.03.2026

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
msa



WEB COPY



W.P(MD).No.27891 of 2022

R.VIJAYAKUMAR, J.

msa

Pre-delivery order made in

W.P.(MD).No.27891 of 2022

04.03.2026