

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.06.2016

CORAM

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P. No.15867 of 2016

R.Saravanan

... Petitioner

vs.

1. The Secretary
Ministry of Road Transport and Highways
Transport Bhawan, Sansad Marg,
New Delhi-110 001.
 2. The Chairman
National Highways Authority of India (NHAI)
G-5 & 6, Sector-10, Dwaraka,
New Delhi-110 075.
 3. The Chief General Manager, (T)
National Highways Authority of India (NHAI)
Sri Tower, DP-34(SP) Industrial Estate,
Guindy, Chennai-600 032.
 4. The Project Director
National Highways Authority of India (NHAI)
Corridor Management Unit,
No.7-E, 5th Cross
Jakappan Nagar, Krishnagiri-635 001.
 5. The District Collector,
Collectors Office
Bangalore Road, Krishnagiri.
- ... Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of a writ of Mandamus directing the 1st and 2nd respondent to consider the petitioner's representation dated 01.0.2015, within a time limit to be stipulated by this Court.

For Petitioner : Mr.Vijay Narayanan
Senior counsel
Assisted by Mr.R.Parthiban
For Respondents : Mr.P.Saravanan (R1 to R3)
Mr.S.R.Sumathy (R4)
Mr.P.SanjaiGandhi (R5)
Additional Government Pleader

ORDER

By consent, the writ petition is taken up for final disposal.

2 The petitioner claiming to be the resident of Krishnagiri District, would aver among other things that the first and the second respondents have laid NH-7 between Bangalore and Chennai and also done the four-laning in the year 2005 under the Prime Minister's Golden Quadrilateral corridor and put up user Toll Plaza at 87.6 Km of NH-7 in the year 2005 which started functioning with effect from 05.07.2005. It is further stated by the petitioner that even at the time of construction of the user Toll Plaza in 2005, the then District Collector of Dharmapuri brought to the notice of the second respondent that there would be severe hindrance to the free flow of vehicles to the Collectorate, which would be subjected to toll and cause untold hardship to the visiting public to the Collectorate, VIPs and also to other officials whose offices are located in the Collectorate Master Plan Complex. But, without ruling on the objection raised by the Collector, the second respondent had constructed the Toll plaza at 87.6 Km of NH-7.

3. It is further stated by the petitioner that the Government of India in exercise of its powers conferred under Section 9 of the National Highways Act of 1996, had made rules for collection of fees etc. In exercise of the above rule making power the National Highways Fees (Determination of Rates and Collection) Rules, 2008 came into being on 05.12.2008 and subsequently, the second concessionaire agreement was entered in the year 2011. The respondent ought to have followed Rule 8(1), which was still in vogue as the earlier concessionaire agreement of 2005 was as per the old rules of 1997 and the new concessionaire agreement is as per the new rules of 2008. Therefore, they ought to have followed the new rules while entering into the second concessionaire agreement. Further, the present user toll plaza located at 87.6 Km in NH-7 falls within the Municipality of Krishnagiri, that is less than half a kilometer from District Collectorate, Krishnagiri. In this regard, the petitioner submitted a detailed representation dated 01.10.2015 to all the respondents. Though, it was received and acknowledged, no response is forthcoming from the respondents. Hence, the petitioner is constrained to file this Writ Petition.

4. Learned counsel for the petitioner has drawn attention of this Court to the letters of the District Collector, Dharmapuri District, dated 08.03.2005, 03.12.2010 and 20.12.2014 and would submit that instead of the said

recommendations which have been made by the official, the third respondent, without hearing the same, has functioned to operate the Toll plaza at 87.6 Km. of NH-7 between Bangalore and Chennai, which is also utter violation of Rule 8(1) of the National Highways Fees (Determination of Rates and Collection) Rules, 2008 and prays for appropriate orders.

5. Though the names of the respondent counsel are printed in the cause list, there is no representation on their behalf.

6. This Court, in the light of the facts and circumstances, directs the respondents 2 to 4 to consider and dispose of the petitioner's representation dated 01.10.2015 on merits and in accordance with law and pass orders as expeditiously as possible, not later than eight weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner.

7. The writ petition is disposed of with the above direction. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(VI)

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Sub Assistant Registrar

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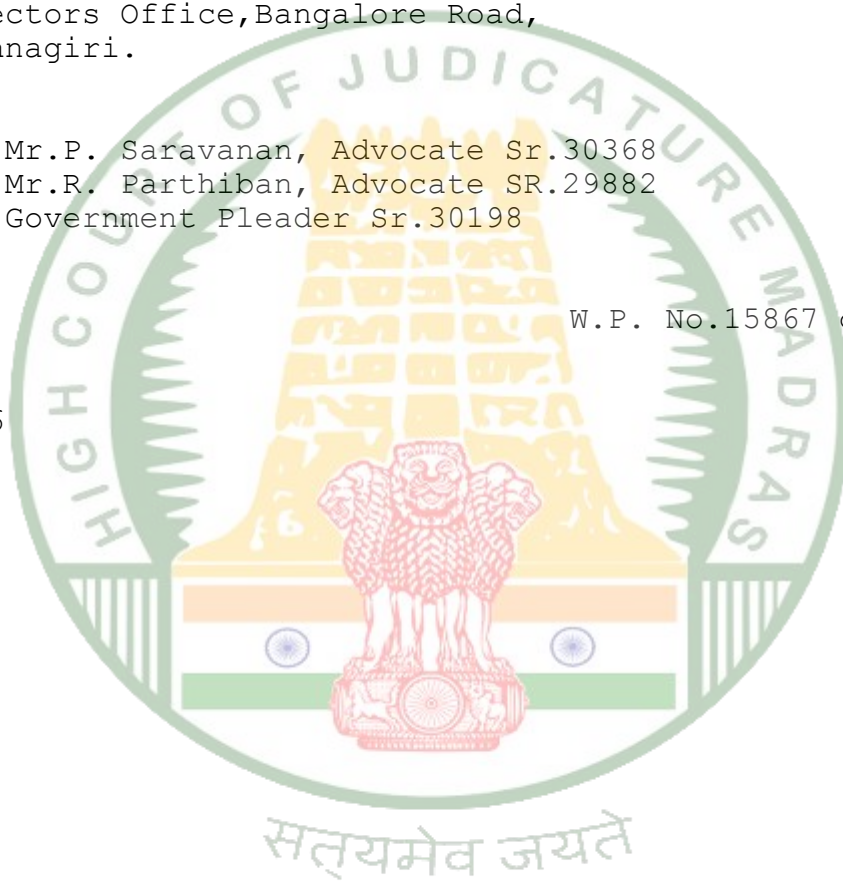
To

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 5. The District Collector,
Collectors Office, Bangalore Road,
Krishnagiri.
- + 1 cc to Mr.P. Saravanan, Advocate Sr.30368
+ 1 cc to Mr.R. Parthiban, Advocate SR.29882
+ 1 cc to Government Pleader Sr.30198

W.P. No.15867 of 2016

LRS (CO)
EU 24.6.16



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