

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 11.02.2016

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THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.32818 of 2015

K.Senthil

.. Petitioner

Versus

- 1 The Government of Tamil Nadu
Rep. by the Secretary to Government
Municipal Administration and Water Supply
Department Fort St. George Chennai-9.
- 2 The Commissioner of
Municipal Administration Chepauk Chennai-5.
- 3 The Commissioner
Thiruvathipuram Municipality
Thiruvathipuram Thiruvannamalai District.
- 4 Mr. A.Ulaganathan
Municipal Engineer and Commissioner incharge
Thiruvathipuram Municipality
Thiruvannamalai District. .. Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a writ of mandamus, directing the second respondent to consider hold enquiry and take action on the representations dated 20.07.2015 and 14.09.2015 submitted by the petitioner against the 4th respondent in accordance with law.

For Petitioner : Mr.R.Natarajan

For Respondents : Mr.R.Rajeswaran (for R1 & R2)
Special Government Pleader
Mr.Jayaprakash Narayanan (for R3 & R4)

O R D E R

Heard the learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader, appearing for respondents 1 and 2 and Mr.Jayaprakash Narayanan, learned standing counsel appearing for respondents 3 and 4.

2. Petitioner is an elected Councilor of Thiruvathipuram Municipality and he has filed this writ petition for issuance of writ of mandamus to direct the 2nd respondent to consider and

hold enquiry and to take action on the petitioner's representations dated 20.07.2015 and 14.09.2015. The 4th respondent who is the Municipal Engineer was appointed as the Commissioner in-charge of the said municipality and several allegations have been made against the said respondent stating that he has abused his official position.

3. The learned standing counsel appearing for respondents 3 and 4 submits that as of now the 4th respondent is not the Commissioner in charge of the said Municipality and he has been transferred.

4. However, transfer will not obliterate or efface the mistake alleged to have occurred and therefore, a fit and appropriate officer has to be appointed to enquire into the allegations. This Court expresses its dissatisfaction to the manner in which the counter affidavit has been filed by the Joint Commissioner (Administration), Office of the Director of Municipal Administration, Chennai -5, while in paragraph No.4, the Joint Commissioner (Administration) would admit that the 4th respondent has not got any permission from the 2nd respondent for construction of his new house at Iyyangarkulam Village, Kancheepuram District by obtaining loan from UCO Bank, Kolivakkam, seeks to sustain his appointment as Municipal Commissioner-in-charge, of the 3rd respondent Municipality. In paragraph No.5, a bald averment has been made that report from the Regional Director of Municipal Administration, Vellore, is awaited and appropriate action will be taken against the 4th respondent.

5. Prima facie, this Court is convinced that the counter affidavit appears to burk facts and the manner in which the counter affidavit has been filed clearly shows that there is an attempt to shield information, which has come to light of the department. Therefore, it is a fit case where the 1st respondent should consider the complaint and appoint a senior and competent officer to act as an independent enquiry officer and he should be directed to submit a report to the 1st respondent and thereafter the 1st respondent being the head of the department should take action in accordance with law.

6. In the light of the above, the writ petition is disposed of by directing the 1st respondent to consider the petitioner's representation, appoint a senior and competent officer to function as an independent enquiry officer to enquire into the allegations and to submit a report to the 1st respondent for appropriate action. The enquiry officer shall afford opportunity of hearing to the 4th respondent and also to the complainant/petitioner. He shall be empowered to call for any records from the Municipality or from the office of the 2nd respondent so as to effectively proceed with the enquiry. The enquiry officer shall be appointed by the 1st respondent within a period of two weeks from the date of receipt of a copy of this order, after which, the enquiry officer appointed shall

diligently proceed with the enquiry and submit his report to the 1st respondent within a period of eight weeks from the date on which, he is appointed, to be considered by the 1st respondent in accordance with law. No costs.

Sd/-
Asst.Registrar (J)

/true copy/

Sub Asst. Registrar

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To

- 1 The Secretary to Government
Government of Tamil Nadu
Municipal Administration and Water Supply
Department Fort St. George Chennai-9.
- 2 The Commissioner of
Municipal Administration Chepauk Chennai-5.
- 3 The Commissioner
Thiruvathipuram Municipality
Thiruvathipuram Thiruvannamalai District.
- 4 Municipal Engineer and Commissioner incharge
Mr. A.Ulaganathan
Thiruvathipuram Municipality
Thiruvannamalai District.

- 1 cc to M/s.V. Jayaprakash, Advocate, Sr. 8980
1 cc to M/s.R. Natarajan, Advocate, Sr. 8900
1 cc to Government Pleader, Sr. 9138

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