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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2016

CORAM

THE HONOURABLE **MR. JUSTICE B. RAJENDRAN**

W.P (MD) .No.3814 of 2016

I.Chinnappan

... Petitioner

Vs.

- 1.The Assistant Director,
National Commission for Scheduled Castes,
2nd Floor, Block-5, Shastri Bhawan,
Chennai-600 006.
- 2.The District Collector,
Tirunelveli District.
- 3.The Assistant Commissioner,
Aadhidravidar / Scheduled Tribe Welfare Office,
Tirunelveli District.
- 4.The Special Tahsildar,
Aadhidravida Welfare,
Thenkasi, Tirunelveli District.
- 5.The President,
Periyapillaivalasu Panchayat,
Periyapillaivalasu, Thenkasi Union,
Senkottai Taluk, Tirunelveli District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a WRIT OF MANDAMUS directing the respondents 1 and 2 to dispose of the representations made by the petitioner dated 25.01.2016 and 01.02.2016.

For petitioner : Mr.N.Ranjith

For Respondents : Mr.S.Kumar

Additional Government Pleader

ORDER

The petitioner has sought for the issuance of a WRIT OF MANDAMUS directing the respondents 1 and 2 to dispose of the representations made by the petitioner dated 25.01.2016 and 01.02.2016. Through the said representation he has requested the



authorities concerned to provide a community hall as well as play ground for the petitioner's village in respect of the survey numbers averred in the Writ Petition.

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2. Though the petitioner has submitted that the subject matter of land has been allotted for the welfare of the petitioner's village for putting up School and a Play ground, he is not in a position to place any papers regarding the allotment order passed by the competent authority. Even according to the learned Counsel for the petitioner, in the subject matter of land, the authorities concerned is going to put up a Primary Health Centre for the benefit of his village. Admittedly, there is no quarrel over the fact that the land belongs to the Government and the petitioner has not even an iota of right over the subject land. In such circumstances, this Court is at a loss to understand under what circumstances he seeks a direction from this Court.

At this juncture, it is the fittest case where the judgment in **M. Ingaci Vs. The Commissioner, Devakottai & Others**, reported in **2010-2-L.W.785**, would apply to the facts and circumstances of the case, wherein, it has been observed that what cannot be considered that cannot be directed to be considered by this Court. In the said judgment, in para 8, it is observed as follows:-

"....

8. Why we are extracting this judgment in such detail is that we should be aware of the consequences of our order when we direct the authorities to "consider". In the aforesaid situation, if the learned Judge, before directing the authorities to consider, had heard the petitioner herein, then the order of the Division Bench reprimanding the 5th respondent would have been brought to the notice of the learned Single Judge. Some time, we also come across cases where our directions is to an authority who cannot really pass an effective order and the effective order can only be passed by an authority superior to the one to whom we issue directions. Obviously, when the order is not complied with, since it cannot be complied with because of the hierarchy discipline, the officer has to face the contempt. All these can be avoided if we only bear in mind the guidelines given in the above case by the Supreme Court before we direct the respondent to "consider and pass orders".

3. Further, the Supreme Court in the case of **A.P. SRTC Vs. G. Srinivas Reddy**, reported in **(2006) 3 SCC 674 = 2006-3-L.W.170**, had observed as follows:-

"19. There are also several instances where unscrupulous petitioners with the connivance of "pliable" authorities have misused the direction "to consider"



issued by court. We may illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time, the person making the representation approaches the High Court with an innocuous prayer to direct the authority to "consider" and dispose of the representation. When the court disposes of the petition with a direction to "consider", the authority grants the relief, taking shelter under the order of the court directing him to "consider" the grant of relief. Instances are also not wanting where authorities, unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order "to consider" as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to "consider", may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of the court's direction to "consider" the claim, or on account of collusion/connivance between the person making the representation and the authority deciding it. Representations of daily-wagers seeking regularisation/absorption into regular service is a species of cases, where there has been a large-scale misuse of the orders "to consider".

4. In any event, even the Primary Health Centre going to be put up by the authorities concerned is only for the welfare of the people and the petitioner cannot stall or dictate the terms to the authorities concerned as to what has to come in the subject matter of land. The Government is always at liberty to make use of their land as they wish and nobody can poke their nose under the Government Scheme under the guise of representation, which is impermissible in law, as pointed out in paragraph Nos.2 and 3 of this order.

For all the foregoing reasons, this Writ Petition is dismissed *in limine*. No costs.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar



To

- 1.The Assistant Director,
National Commission for Scheduled Castes,
2nd Floor, Block-5, Shastri Bhawan,
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- 5.The President,
Periyapillaivalasu Panchayat,
Periyapillaivalasu, Thenkasi Union,
Senkottai Taluk, Tirunelveli District.

+1cc to Mr.R.Saravanan, Advocate Sr.No.10768

+1cc to Spl.GOvernemnt Pleader Sr.No.10969

ssm

AA/SK-SKN/04.03.2016/4p-8c

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