

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2017

CORAM

The HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.30545 of 2004
and W.P.M.P.No.37023 of 2004

K.Ambedkar

.. Petitioner

vs.

The Revenue Divisional Officer,
Namakkal.

.. Respondent

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a writ of certiorari calling for the records of the respondent in his Proceedings bearing Na.Ka.7389/04(A5) dated 28.9.2004, quash the same.

For Petitioner : Mr.S.Saravana Kumar

For Respondents : Mr.T.M.Pappiah
Spl. Government Pleader

ORDER

The main writ petition is one of Certiorari, assailing an order dated 28th September, 2004 bearing reference Na.Ka.No.7389/04(A5) made by the lone respondent before me i.e., the Revenue Divisional Officer, Namakkal.

2. The matter pertains to 23 trees being felled/cut and removed by the writ petitioner, who is the President of Navani Thottakurpatty Panchayat.

3. As these trees were felled/cut and removed without obtaining permission and illegally using a bulldozer, vide a impugned order being order dated 28th September, 2004 bearing reference Na.Ka.No7389/04(A5), the lone respondent before me, directed the writ petitioner to pay cost of the 23 felled/cut and removed trees estimated at Rs.1380/-. In addition to this, vide impugned order, five times penalty of Rs.6,900/- was also levied. In other words, a total sum of Rs.8,280/- was demanded from the writ petitioner.

4. It is the case of the writ petitioner that felling/cutting and removal of the 23 trees was for a larger public purpose because the Block Development Officer, Puduchathiram had sanctioned certain sums of money for laying pucca road between Musiri – Thathatripuram and Vanakarampudur via Vellalapatti under self-employment scheme.

5. The writ petitioner, as stated supra, is the President of Navani Thottakurpatty Panchayat and it is his say that these 23 trees were to be felled/cut and removed, as they were an obstruction for laying of a pucca road under the aforesaid scheme.

6. Therefore, the cutting and removal/felling of 23 trees was for a larger public good is the case of the petitioner.

7. However, in paragraph 4 of the writ affidavit, the writ petitioner had clearly averred that he agreed to pay the cost of the trees to the Government. The relevant portion of paragraph 4 of the writ affidavit reads as under:-

"4. I had informed them that the trees had to be felled (sic felled) as road could not be laid without felling them. I had also agreed to pay the cost of the trees to the Government." (underlining made by me to supply emphasis) (sic inserted by me to avoid possible ambiguity)

8. In the light of the clear stand taken by the writ petitioner in his writ affidavit (paragraph 4), the writ petitioner cannot have any grievance with regard to that portion of the impugned order, calling upon him to pay the cost of the trees estimated at Rs.1,380/-.

9. Therefore, the only grievance of the writ petitioner, which survives for consideration is imposition of five times penalty.

10. I have heard Mr.S.Saravana Kumar for the writ petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing on behalf of the respondent.

11. It is not in dispute that the trees were felled/removed for a larger public good i.e., for laying pucca road under self-employment scheme, for which funds were sanctioned by the Block Development Officer, Puduchathiram. Therefore, it would be appropriate that the penalty imposed vide the impugned order dated 28th September, 2004 alone is set aside.

12. The impugned order being order dated 28th September, 2004 bearing reference Na.Ka.No.7389/04(A5) is partially set aside to the extent that it imposes five times of penalty.

13. With regard to calling upon the writ petitioner to pay cost of 23 trees estimated at Rs.1,380/-, the impugned order is sustained in the light of the admission of the writ petitioner.

14. The writ petitioner shall pay the admitted cost of Rs.1,380/-(Rupees One Thousand Three Hundred and Eighty only) within a fortnight from the date of receipt of a copy of this order to the appropriate authority.

15. The writ petition is partly allowed to the extent stated supra. No costs. Consequently, WP.M.P.No.37023 of 2004 is closed.

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Index : Yes/No
Internet : Yes/No

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To:

The Revenue Divisional Officer, Namakkal.

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M.SUNDAR, J.

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