



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.11.2017

CORAM:

**THE HONOURABLE MR. JUSTICE M. VENUGOPAL
AND
THE HONOURABLE MR. JUSTICE ABDUL QUDDHOSE**

W.P. (MD) No. 19938 of 2015

M.R. Vasantha

: Petitioner

. vs. .

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Municipal Administration and Water Supply
Department,
Fort St. George,
Secretariat,
Chennai - 600 009.
2. The State of Tamil Nadu,
represented by its Secretary to Government
(Panchayats),
Local Administration Department,
Fort St. George, Secretariat,
Chennai - 600 009.
3. The Commissioner,
Directorate of Town Panchayats,
Kuralagam,
Chennai - 600 108.
4. The District Collector,
Thanjavur District,
Thanjavur.
5. The Assistant Director of Town Panchayats,
Collectorate Campus
Thanjavur Region,
Thanjavur District.
6. Mr. V. Mani,
The Assistant Director of Town Panchayats,
Collectorate Campus,
Thanjavur Region,
Thanjavur District.



7. The Executive Officer,
Thiruppuvanam Town Panchayat,
Thiruppuvanam,
Thiruvidaimurudur Taluk,
Thanjavur District.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying this Court for issuance of a Writ of Mandamus directing the Respondents 1 to 4 herein to consider and dispose of the Petitioner's representation dated 09.10.2015 within the time stipulated by this Court.

For Petitioner : M/s.A.Saravanan
For Respondents : Mr.T.R.Janarthanan
1 to 5 Additional Govt.Pleader

For Respondent-6 : Mr.C.Prithiviraj
for M/s.C.Selvaraj

For Respondent-7 : Mr.S.Satheeshkumar
Addl.Govt.Pleader\
for Mr.K.P.Krishnadoss
Govt.Advocate

O R D E R

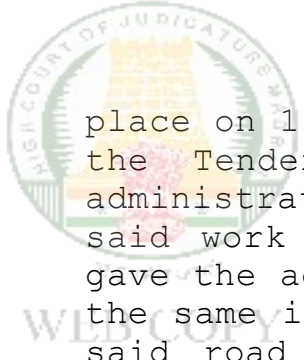
[Order of the Court was made by **M.VENUGOPAL, J.**]

The Petitioner has preferred the present Writ Petition for passing of an order by this Court in directing the Respondents 1 to 4 to consider and dispose of his representation, dated 09.10.2015 within the time to be adumbrated by this Court.

2.Heard both sides.

3.By consent, the main Writ Petition itself is taken up for final disposal.

4.It is the stand of the Petitioner that the Respondents 5 and 6, in an arbitrary exercise of power in regard to the laying of Tar Road from Pattarakara Street to join with the Maruthuva Street, even though a tender was called for on 22.7.2015, the tender was opened on 7.8.2015 and even the successful tenderers were selected namely, one S.Amutha, resident of Naduvakkarai and one M.Rajendran, resident of Chettimandapam.



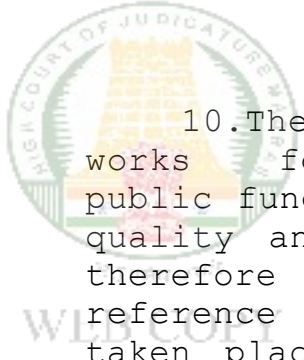
place on 11.08.2015, the said work in question was not executed by the Tenderer. The Respondents 5 and 6 issued necessary administrative sanction through letter, dated 6.7.2015 for the said work and other works. It appears that Respondents 5 and 6 gave the administrative sanction and according to the Petitioner, the same is without any authority of Law in order to execute the said road work etc. Furthermore, the Respondents 5 and 6 had shown personal interest in order to lay the said road in and over the land belongs to the said temple.

6.The Petitioner in her affidavit at Para 6 of the Writ Petition had come out with a definite stand that the irregularities committed by the Respondents 5 and 6 insofar as they are concerned, notwithstanding the fact that as early as on 26.1.2014, a resolution was passed by the Respondent No.7/Panchayat Council to the effect that in order to laying of Tar Road pertaining to 12th Ward, Rs.37,00,000/- (Rupees thirty seven Lakhs only) is estimated by the Engineers, was to be spent under the funds from the Integrated Urban Development Mission (IUDM). However to the contrary, the said resolution without any further resolution, the said valuation has been divided into double and the funds were taken from common fund of the Respondent No.7/Panchayat etc.

7.The clear-cut version of the Petitioner is that the Seventh Respondent's Panchayat funds were misused on the basis of administrative instructions issued by the Respondents 5 and 6 for which, they have to be dealt with departmentally by taking all actions. Furthermore, the workers turned down based on the administrative instructions of the Respondents 5 and 6, are to be tested and valued by appointing a common Civil Engineer after conducting necessary spot inspection. Also that, what ever work that were administratively sanctioned by the Respondents 5 and 6 which is impermissible to be spent under the common funds of the Seventh Respondent/Panchayat and after conducting a detailed inspection for all the short-comings as pointed by the Petitioner earlier with regard to the illegal administrative sanction of the Respondents 5 and 6 and the Sixth Respondent has to be departmentally prosecuted.

8.The Petitioner had addressed a representation, dated 9.10.2015 to the concerned Respondent mentioned therein pertaining to the wrong utilization of the public fund on an approximate Rs.2.5 crores for the past three years at Thiruppuvanam Panchayat.

9.A cursory perusal of the representation of the Petitioner, dated 9.10.2015 addressed to the Honourable Chief Minister of Tamil Nadu and three other persons indicates that the Petitioner had referred to the Engineer's estimate for laying the Tar Road at 12th Ward Peshwa Agraharam of Thiruppuvanam.

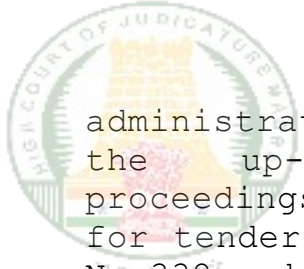


10. The real grievance of the Petitioner appears to be that the works for which administrative sanction was accorded from the public fund even though works turned down were of substandard quality and that some person was receiving the benefit and therefore the turning down of work is to be examined with reference to the conduct of inspection and if any wrong that had taken place, then the departmental action was required to be taken.

11. The Fourth Respondent, in the counter at paragraph 6 had stated that considering the necessity and welfare of the village people, the Thiruppuvanam Town Panchayat Authorities/Seventh Respondent had decided to convert the existing joint road from Melapattarakara Street to Maruthuva Street with the public fund during the year 2014-15 and the same was got approved under the Resolution No.215, dated 11.2.2014. As a matter of fact, the Petitioner was called and spot inspection was made and thereafter the above said work was resolved in Resolution No.281, dated 4.12.2014. Thereafter, the Seventh Respondent on 22.5.2015, had sought for administrative sanction from the Respondents 5 and 6 for the said work and the Assistant Director of Town Panchayat, Thanjavur, who is the competent authority to accord administrative sanction to the said works for laying Tar Road in the village, as per proceedings in Na.Ka.No.1350/2015/TPI, dated 6.7.2015.

12. The core contention made on behalf of the Fourth Respondent is that only after obtaining administrative sanction from the Fifth Respondent/The Assistant Director of Town Panchayats, Thanajvur, the Seventh Respondent/The Executive Officer, Thiruppuvanam Town Panchayat, Thiruppuvanam, Thanjavur District had called for the tender and in this regard, the Resolution No.383, dated 13.08.2015 was passed to initiate the work. Therefore the work order was issued by the Seventh Respondent/The Executive Officer, Thiruppuvanam Town Panchayat, Thiruppuvanam, Thanajvur District as per order, dated 13.8.2015 to the Contractor for execution of the said work. Indeed, the said work had commenced and now the entire works are completed.

13. In regard to the Beshwa Agraharam Road, due to heavy damages in the road, buses were stopped and the local public were put to very much inconvenience and local people had approached the Fourth Respondent on a Grievance Day and submitted a representation to repair the heavy damages in the Beshwa Agraharam Road and to restore the bus services regularly through the said road. Later, the said matter was resolved by the Seventh Respondent as per Resolution No.215, dated 11.12.2014 and also sought for administrative sanction from the Fifth Respondent by <https://hcc.mca.gov.in/services> proceedings in Na.Ka.No.11 of 2014, dated 12.1.2015. The Fifth Respondent/The Assistant Director of Town Panchayats, Thanjavur District /Competent Authority had accorded



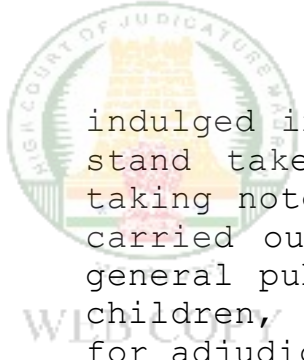
administrative sanction in respect of Town Panchayat to carry out the up-gradation of Beshwa Agraharam Road Work as per proceedings, dated 28.4.2015. The Seventh Respondent had called for tenders and necessary resolution was passed in Resolution No.332, dated 29.5.2015. The work order was issued to the Contractor to execute the work as per proceedings, dated 29.5.2015. The said work was periodically inspected and verified by the Assistant Executive Engineers, Thanjavur and properly supervised and the works were completed. The roads were put into public usage.

14.The Fourth Respondent/The District Collector, Thanjavur District in his counter at paragraph 10, had stated that the works in question were not carried under Integrated Urban Development Mission Scheme(IUDM), but the said works were carried out with the General fund only in the interest of school going children and the general public at large. The said works were executed only after exercising the proper regulations and publications made in the Daily Thanthi News Paper, dated 6.5.2015 and Dinamalar News Paper, dated 4.8.2015 in Thanjavur District. The Fourth Respondent takes a stand that the proposals were sent to carry out the above said Tar Road laying works under the Integrated Urban Development Mission Scheme etc., and only out of the general fund in the interest of general public of the village and interest of school going children, the works in question were turned out. In short, the stand of the Fourth Respondent is, that the Writ Petition is devoid of merits and liable to be dismissed.

15.The Seventh Respondent had also filed a counter, among other things, to the effect that the work was carried only under Integrated Urban Development Mission Scheme and since the fund was not allotted under the said scheme, the work was carried out to rescue the school going children and the local public from the impending hazards. Moreover, the Petitioner with a guilty intention to put the local public into inconvenience, has filed the present Writ Petition.

16.The similar stand taken by the Sixth Respondent is that one taken by the Respondents 4 and 7, in the subject-matter in issue.

17.Considering the fact that the Respondents 4,6 and 7 have come out with a plea that only from the general fund work in question were carried out considering the interest of general public of the village and in the interest of school going children and since the Petitioner himself had mentioned in his representation, dated 09.10.2015 that if any wrongs were committed, then departmental action was required to be taken, then <https://hdservices.ecms.gov.in/hdservices/> if the considered view that the Petitioner herself is not very much sure about the execution of the work in question and in regard to any happening of wrong acts, she had only



indulged in assumption, presumption, in any event, in view of the stand taken by the Respondents 4,6 and 7 and also this Court taking note of the judicial fact that the works in question were carried out from the general fund, that too, in the interest of general public in the village and in the interest of school going children, disposes of the Writ Petition, since nothing survives for adjudication in the subject-matter in issue. No costs.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply
Department,
Fort St.George,
Secretariat,
Chennai - 600 009.
2. The Secretary to Government
(Panchayats),
Government of Tamil Nadu,
Local Administration Department,
Fort St.George, Secretariat,
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3. The Commissioner,
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4. The District Collector,
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Collectorate Campus
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6. Mr.V.Mani,
Director of Town Panchayats,
Collectorate Campus,
Thanjavur Region, Thanjavur District.



7.The Executive Officer,
Thiruppuvanam Town Panchayat,
Thiruppuvanam,
Thiruvidaimurudur Taluk,
Thanjavur District.

+ 1 cc TO Mr.A.Saravanan , Advocate in SR No. 89021
+ 1 cc TO The Special Government Pleader in SR No.89248

vsn
AE/SKN RSK/SAR1/20.12.2017/7P/10C

**ORDER MADE IN
W.P. (MD) No.19938 of 2015
23.11.2017**