



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 07.06.2017
CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

W.P.(MD)No.3887 of 2017
and
W.M.P.(MD)Nos.3081, 3082 and 8117 of 2017

Gokul Adds,
Represented by its Proprietor N.Srinivasan : Petitioner

-Vs-

1.The District Collector,
District Collectorate,
Karur District,
Karur.

2.The Commissioner,
Karur Corporation,
Corporation Office,
Karur.

3.The Superintendent of Police,
Karur District,
Karur.

4.The Analog @ Digital Labs,
No.1250/2, Avinashi Road,
P.N.Palayam,
Coimbatore-641 037.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for the records of the third respondent pertaining to the proceedings in C.No.G2/21757/2016, dated 09.12.2016 and quash the same.

For Petitioner

: Mr.V.P.Valliappan

For Respondents 1to3

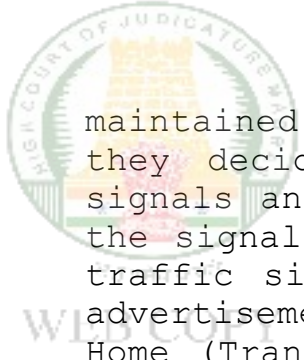
: Mr.T.S.Mohammed Mohideen,
Additional Government Pleader

For Respondent No.4

: Mr.K.Muthu Ganesa Pandian

O R D E R

<https://hcservices.echips.gov.in/hcservices/> in this Writ Petition relates to maintenance of traffic signals in Karur City. The traffic signals in busy junctions were installed by the State Police Department and were



maintained by them. Since the police suffered financial crunch, they decided to bring in private players to maintain traffic signals and earn income by installing advertisement boards around the signal. Advertisement Companies came forward to maintain the traffic signals free of cost and they were permitted to install advertisement boards. This move finds support in G.O.Ms.No.1566, Home (Transport-V) Department, dated 20.11.2008, wherein Clause 4 (x) reads as under:

"4. The Government after considering the recommendations of the Transport Commissioner also direct that the District Road Safety Committee in the District and the Chennai District Road Safety Committee shall meet regularly at least once in a month to review the following:-

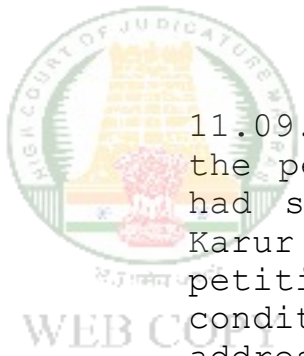
(x) To encourage private participation in the task of carrying out Road Safety Activities."

2. In 2012, one Yamini Signals were assigned the rights to maintain traffic signals and police umbrellas in Karur City. The petitioner obtained rights by entering into a private assignment with Yamini Signals by an undated document, which bears 100 rupees non-judicial stamp paper dated 30.03.2012. The petitioner submitted an application to the Superintendent of Police for regularizing the assignment and it is the case of the petitioner that the Superintendent of Police, Karur, by order dated 03.11.2015, granted permission to the petitioner to maintain the traffic signals and police umbrellas in Karur City. While so, it is the grievance of the petitioner that the Superintendent of Police has passed an order dated 09.12.2016 granting permission to M/s.Analog & Digilan Labs (fourth respondent herein) for maintaining the signals without formally terminating the earlier order and, therefore, the petitioner has filed the present Writ Petition.

3. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the respondents 1 to 3 and the learned counsel for the fourth respondent.

4. Dr.T.K.Rajasekaran, Superintendent of Police, Karur District, has filed a counter-affidavit, wherein in paragraph Nos.7 and 8, it is stated as follows:

"7. I respectfully submit that the averments which were made in paragraph 4 of the affidavit that on 03.11.2015, the 3rd respondent through the proceedings in Na.Ka.G3/21333/267/2015 granted permission to the petitioner to install I.P. Video Surveillance Camera, Bus Shelter, etc are false. It is true that originally the 1st respondent (who was the Authorized Authority for granting permission to install I.P. Video Surveillance Camera, Bus Shelter etc.) had issued a letter dated



11.09.2015 to send a report for granting permission to the petitioner. For the said letter, the 3rd respondent had sent a detailed report to the District Collector, Karur with a recommendation to issue permission to the petitioner only after fulfilling the terms and conditions. It is submitted that such letter was addressed to the Collector, the 1st Respondent and not to the petitioner. On behalf of the 3rd respondent, the then ADSP, Head Quarters of Karur District while sending the report to the District Collector -the 1st respondent had mentioned the word "permitted" instead of "may be permitted". That is purely a recommendation and more particularity such communication is an inter-departmental correspondence. If any recommendation is made, it is for the 1st respondent to decide.

8. It is pertinent to submit that the 3rd respondent is the not Competent Authority to issue licence to the petitioner to install IP Video surveillance camera, Bus shelter, etc. The District Collector - the 1st respondent is the competent authority to grant permission. Moreover, the 3rd respondent had recommended to the 1st respondent to grant permission to the petitioner. Hence the averments which were stated in this para that the 3rd respondent had granted permission to the petitioner are incorrect and not legally correct."

5. Per contra, the learned counsel for the petitioner submitted that the letter dated 03.11.2015 issued by the Superintendent of Police unequivocally grants permission to the petitioner and, therefore, on the strength of the said permission, the petitioner had purchased and installed equipments at his cost and, therefore, the petitioner should not be disturbed.

6. This Court gave its anxious consideration to the rival submissions.

7. It is admitted fact that there are no rules framed by the Government governing this aspect. Though the Government of Tamil Nadu, by G.O.Ms.No.1566, Home (Transport-V) Department, dated 20.11.2008, has taken a policy decision, yet, there are certain difficulties in its implementation. It is contended by the State that the Superintendent of Police does not have independent authority to take any decision on such issues and it is only the District Collector who has the authority to take such decisions. The Superintendent of Police, in his counter-affidavit, has also reiterated this.

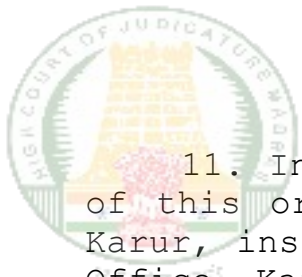
<https://hcservices.ecourts.gov.in/hcservices/>

8. It is common knowledge that the District Collector is the head of the District and the Superintendent of Police has to carry

out the lawful directions issued by him from time to time. On a reading of the communication dated 03.11.2015, on which, strong reliance has been placed by the learned counsel for the petitioner, it is seen that the said communication is not an order passed by the Superintendent of Police, Karur District, but, it is only a letter of recommendation sent by the Superintendent of Police to the District Collector. In fact, the same has not even been marked to the petitioner and it is not known as to how the petitioner managed to obtain a copy of the same. The Subject portion of the communication clearly states that “அனுமதி கோரியது - அறிக்கை அனுப்ப்தல் - தொடர்பாக” (permission sought - report submitted - regarding). Of course, in the body of the communication, the word “அனுமதி அளிக்கப்படுகிறது” has been used, which, the Superintendent of Police has explained in paragraph No.7 of the affidavit extracted above. When it is the contention of the State that only the District Collector has the authority in such cases to decide such issues, the usage of the word “அனுமதி அளிக்கப்படுகிறது” (permission granted) in the body of the letter dated 03.11.2015 issued by the Superintendent of Police by itself would not confer any right on the petitioner to say that he has been granted permission. In other words, even if the letter dated 03.11.2015 is construed as a permission granting letter, yet, it is beyond the scope of the power of the Superintendent of Police and, therefore, the petitioner cannot claim any right via., the said letter. Similarly, even the communication dated 09.12.2016 that has been sent by the Superintendent of Police, Karur District, giving permission to the fourth respondent, should also be construed only as a letter of recommendation and nothing more. This is not a State largesse or a contract where the successful bidder is required to pay money to the State. These private players are permitted to maintain the traffic signals free of cost without any financial benefit to the State. In fact, by agreeing to maintain the traffic signals free of cost, it is the Advertisement Agencies who stand to benefit financially. Therefore, the petitioner does not have any fundamental right or vested right to say that he should be permitted to maintain the traffic signals in perpetuity.

9. In the result, this Writ Petition is devoid of merits and accordingly, it is dismissed, however, with a direction to the District Collector to consider the claim of the petitioner and the fourth respondent and pass orders in accordance with good conscience. The interim stay granted by this Court by order dated 06.03.2017 stands vacated.

10. It is seen that in the petition, the second respondent has been wrongly shown as 'the Commissioner, Karur Corporation, Corporation Office, Karur', in lieu of 'the Municipal Corporation Office, Karur Municipality, Karur'.



11. In view of the above, Registry is directed to send a copy of this order to the Municipal Commissioner, Karur Municipality, Karur, instead of the Commissioner, Karur Corporation, Corporation Office, Karur.

No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The District Collector,
District Collectorate,
Karur District,
Karur.

2. The Municipal Commissioner,
Karur Municipality,
Karur.

3. The Superintendent of Police,
Karur District,
Karur.

+One cc to Mr. P. Thiagarajan, Advocate, SR.No.59080

+One cc to The Special Government Pleader, SR.No.59208

SML

RL/6C/5P/GT/SAR3/27/6/2017

Order made in

W.P. (MD) No.3887 of 2017

Dated: 07.06.2017