

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.07.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Writ Appeal No.1478 of 2018

and

C.M.P.No.11656 of 2018

T.Subbaiyan Appellant/Petitioner

Vs

1.The District Collector,
Tiruvarur District,
Tiruvarur.

2.The Block Development Officer,
Muthupettai Panchayat Union,
Muthupettai,
Tiruvarur District.

... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters of Patent against the order of this Court passed in W.P.No.37273 of 2007 dated 18.12.2007.

Prayer in W.P.37273 of 2007:

Writ Petition No.37273 of 2007 has been filed to issue a Writ of Certiorarified Mandamus call for the records of the first respondent by his order of Na.Ka.No. 4210/2005/E4 dated 7.2.2006 cancelled the sanctioned work of construction of cremation shed at Sirupanaiyur Village in Pinnathur Village Panchayat Muthupettai Panchayat Union Tiruvarur District and quash the same and directing the first and second respondent to allot a fund to the already constructed cremation shed works as per the order of the first respondent in Na.Ka.No. 4210/2005/E4 dated 1.9.05 and disburse the sanctioned amount of Rs.31,000/- to the Petitioner.

For Appellant : Mr.K.Balakrishnan

For Respondents: Mr.A.N.Thambidurai
Special Government Pleader

JUDGMENT

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

By consent, the Writ Appeal is taken up for final disposal. Mr.A.N.Thambidurai, learned Special Government Pleader, appears for the respondents.

2. The appellant/writ petitioner was the elected President of Pinnathur Village Panchayat and held the said office between 2001 and 2005 and according to him, the District Administration, vide revised sanction plan order in Na.Ka.No.4210/2005/E4 dated 01.09.2005, had sanctioned eight works in the said Village Panchayat under 'Sampurna Grama Rojgar Yojana Scheme 2005-2006' which is also known as 'Food for work scheme'. One of the works sanctioned was construction of a cremation shed at a cost of Rs.31,000/-. It is the claim of the appellant/writ petitioner that on account of frequent rains, work could not commence, however, it was completed and as such, the local body is entitled to get funds for the construction of cremation shed work. The grievance now expressed by the appellant/writ petitioner is that without ascertaining the factual particulars, the first respondent has cancelled the said order, vide impugned proceedings dated 07.02.2006 and making a challenge to the said order, the appellant/writ petitioner has filed the Writ Petition and it was entertained and notices were ordered to the respondents.

3. During the course of hearing, it was brought to the knowledge of this Court that the second respondent, vide order dated 13.08.2007, has passed a detailed order stating that the appellant/writ petitioner has not even commenced the work which was entrusted to him and in view of the same, permission accorded to carry out the said work was cancelled.

4. Learned Judge, having noted that without challenging the order of the second respondent dated 13.08.2007, the appellant/writ petitioner has chosen to challenge the earlier order of the first respondent dated 07.02.2006 and taking into consideration of the fact that the appellant/writ petitioner has not even commenced the work within the stipulated time, found no infirmity in the impugned order and accordingly, dismissed the Writ Petition and aggrieved by the same, the present Writ Appeal is filed.

5. Mr.K.Balakrishnan, learned counsel appearing for the appellant/writ petitioner, would submit that the fact remains that the work has been completed, though belatedly commenced and in all fairness, the local body should have been put on notice

and inspection should have been caused and after affording an opportunity, the order should have been passed and since it has not been done, prays for interference.

6. Per contra, Mr.A.N.Thambidurai, learned Special Government Pleader appearing for the respondents, would submit that no interim orders are in operation and in the light of passage of time, nothing remains for further adjudication in this Writ Appeal and prays for dismissal of the same.

7. This Court has considered the rival submissions and also perused the materials available on record.

8. It is the claim of the appellant/writ petitioner that the construction of cremation shed was completed prior to February 2006 and inspection also was caused. However, no material has been placed before the learned Single Judge as well as before this Court to sustain the said fact. Learned Single Judge, in the impugned order, has also pointed out that the second respondent has passed the consequent proceedings on 13.08.2007 cancelling the said work based on the impugned proceedings of first respondent dated 07.02.2006 and what was challenged was the proceedings of the first respondent and the consequent proceedings of the second respondent have not been challenged. As rightly pointed out by the learned Special Government Pleader in the light of passage of time, nothing remains for further adjudication in the Writ Appeal.

9. This Court, on an independent application of mind, is of the considered opinion that there is no error apparent or infirmity in the reasons assigned by the learned Single Judge. That apart, on account of passage of time from the date of dismissal of Writ Petition, nothing remains to be adjudicated in the Writ Appeal.

In the result, the Writ Appeal is dismissed confirming the order of learned Single Judge passed in W.P.No.37273 of 2007 dated 18.12.2007. However, in the circumstances of the case, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

gm

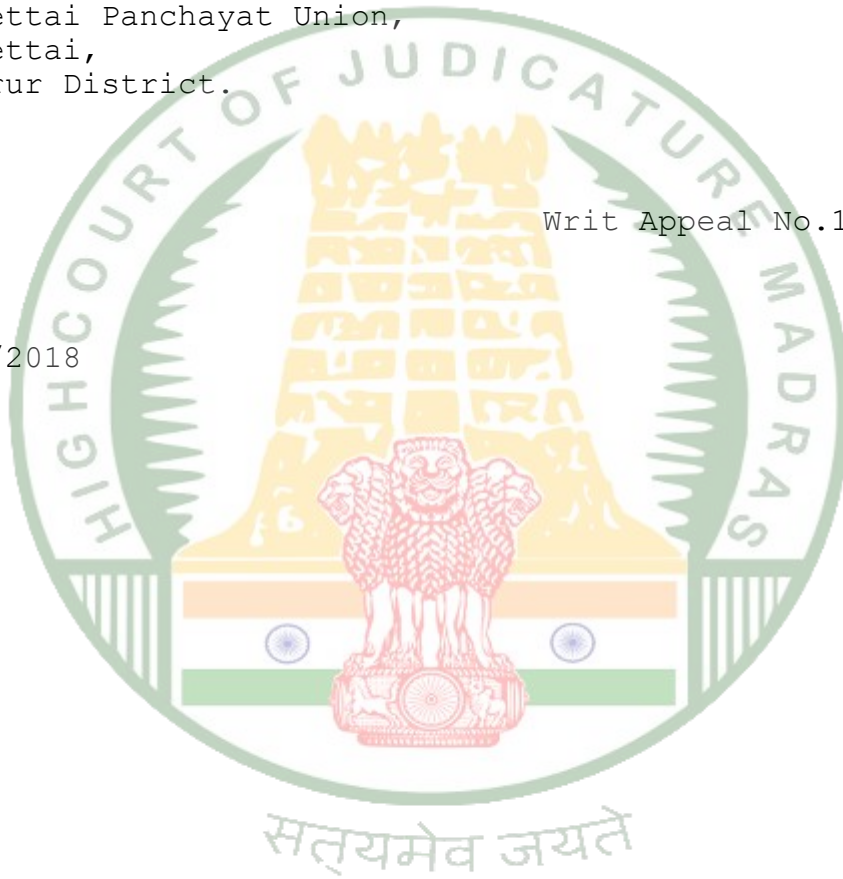
To

1.The District Collector,
Tiruvarur District,
Tiruvarur.

2.The Block Development Officer,
Muthupettai Panchayat Union,
Muthupettai,
Tiruvarur District.

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srg 20/07/2018



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