

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 04.01.2018
CORAM:
THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM
W.P.No.32881 of 2017 &
W.M.P.No.36243 of 2017

C.Kanniyappan

.. Petitioner

Vs.

1.The District Collector / Chairman,
District Rural Development Agency,
Tiruvannamalai District,
Tiruvannamalai - 606 604.

2.The Project Director,
District Rural Development Agency,
Tiruvannamalai District,
Tiruvannamalai - 606 604.

3.The Block Development Officer (B P),
Block Development Office,
Vembakkam, Tiruvannamalai District.

4.The Assistant Executive Engineer (R D),
Deputy Collector Complex,
Cheyyar - 604 407.
Tiruvannamalai District.

5.The Assistant Engineer,
Panchayat Union,
Vembakkam, Tiruvannamalai District. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the proceedings of the third respondent in his office ref:No.Ka.Vu.A7/1239/2015, dated 05.10.2015 and Na.Ka.Vu.A7/239/2015 dated 18.11.2017, quash the same and direct the respondents 1 to 3 herein to issue fresh work order under the Chief Minister Solar Powered Green House Scheme (CMSPGHS) to complete the construction of the house by the petitioner at Kizhnelliv Village, Vembakkam Taluk, Tiruvannamalai District, within a time frame.

For Petitioner : Mr.P.Mani

For Respondents : Mr.M.Perumal

Government Advocate for R1, R2, R4 and R5
Mr.Rajendran Narazimhan for R3

O R D E R

The petitioner has come forward with the present Writ Petition for issuance of a Writ of Certiorarified Mandamus to quash the order of the third respondent in ref:Na.Ka.Vu.A7/1239/2015, dated 05.10.2015 and Na.Ka.Vu.A7/239/2015 dated 18.11.2017 and for a direction to the respondents 1 to 3 to issue fresh work order under the Chief Minister Solar Powered Green House Scheme (CMSPGHS) to complete the construction of the house by the petitioner at Kizhnelliv Village, Vembakkam Taluk, Tiruvannamalai District, within a time frame.

2. The case of the petitioner is that he is one of the beneficiaries under the Chief Minister Solar Powered Green House Scheme recommended by the Village Panchayat, Kizhnelli. On the basis of the recommendation of the Village Panchayat, the first respondent issued list of beneficiaries and the third respondent issued work order dated 08.04.2015 in favour of the petitioner to construct Green House at the cost of Rs.2,10,000/-.

3. The petitioner would state that when he completed construction to an extent of 75%, the third respondent insisted the petitioner to produce eligibility certificate from the Tahsildar, due to objections from the adjacent house owner. The petitioner immediately applied to the Tahsildar, Vembakkam for issuance of eligibility certificate and when the process was going on, the third respondent cancelled the work order in his proceedings dated 05.10.2015. It is further stated that after obtaining eligibility certificate, the petitioner approached the respondents seeking permission to restore the work. Since it was rejected, the present Writ Petition.

4. The learned counsel for the petitioner submitted that the petitioner was found eligible under the Scheme of the Chief Minister Solar Powered Green House by the Village Panchayat, but the work order was cancelled only due to the objections from the neighbour on the ground of non-production of eligibility certificate. The third respondent cancelled the work order without affording an opportunity to the petitioner and in violation of principles of natural justice.

5. The learned Government Advocate appearing for the respondents would submit that in view of the objections from one Mr.Radhakrishnan, son of Raja Sami Pillai, the petitioner was directed to produce the eligibility certificate and in view of non-compliance, the work order was cancelled.

6. It is not in dispute that the impugned orders came to be passed without affording an opportunity to the petitioner. Perusal of the photographs enclosed in the typeset shows that construction of the building had come upto the linal level. It is the specific case of the petitioner that he is having eligibility under the Scheme and he has also now been issued with eligibility certificate by the Tahsildar, Vembakkam.

7. In the light of the above facts and submissions of the learned counsels, in the considered opinion of this Court, the orders impugned in this writ petition are liable to be quashed and accordingly they are set aside and the matter is remitted back to the third respondent, who shall issue notice to the petitioner and after providing an opportunity to him, pass orders on merits and in accordance with law within a period two months from the date of receipt of a copy of this order.

8. With the above observations, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The District Collector / Chairman,
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Tiruvannamalai District,
Tiruvannamalai - 606 604.

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District Rural Development Agency,
Tiruvannamalai District,
Tiruvannamalai - 606 604.

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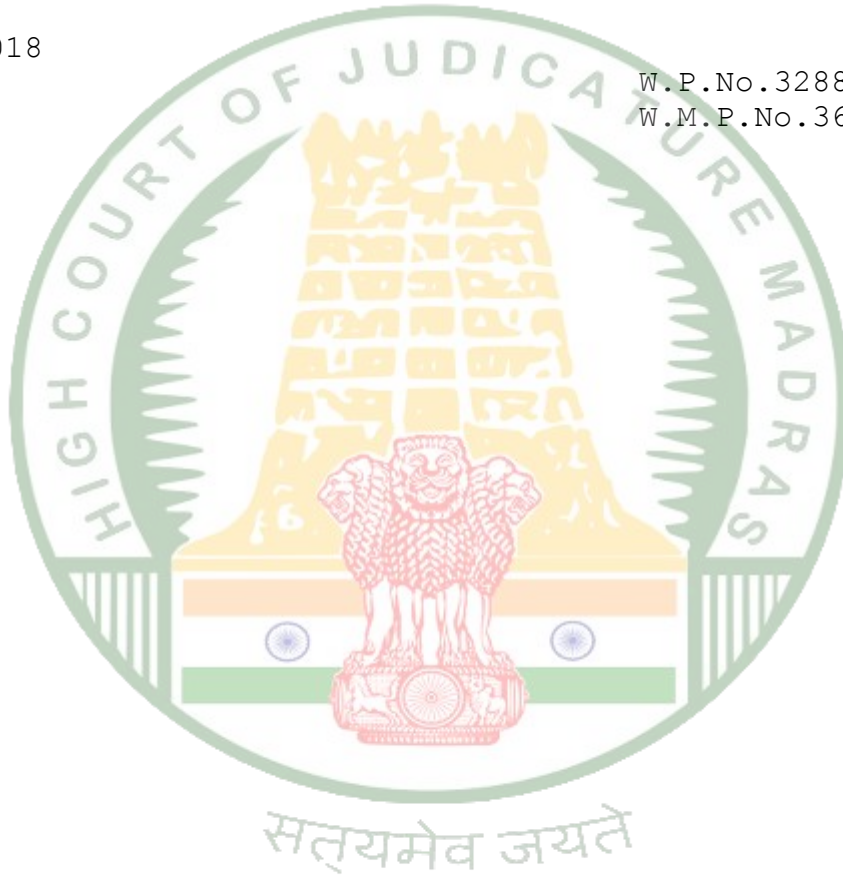
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5.The Assistant Engineer,
Panchayat Union,
Vembakkam, Tiruvannamalai District.

+lcc to Government Pleader Sr.No.1147
+lcc to Mr.P.Mani, Advocate SR.No.887

sm:23.1.2018

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