

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.08.2018

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

and

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.12036 of 2018

and

W.M.P.No.14038 of 2018

V.Kanniappan

.. Petitioner

Vs.

- 1.The District Collector/Chairman,
District Rural Development Agency,
Villupuram, Villupuram District.
- 2.The Director,
Directorate of Rural Development & Panchayat
Raj Department,
Panagal Maligai, Saidapet,
Chennai.
- 3.The Project Officer,
District Rural Development Agency,
Villupuram,
Villupuram District.
- 4.Assistant Director (Panchayats)
District Rural Development Agency,
Villupuram,
Villupuram District.
- 5.The Supervisor,
Melmalayanur Panchayat Union,
Melmalayanur
Villupuram district.
- 6.The Block Development Officer,
Projects,
Melmalayanur Panchayat Union,
Villupuram District.

.. Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, for a Writ of Mandamus, directing the respondents 1 to 3 to consider the representation dated 21.04.2018 and take appropriate action against the construction of Panchayat building for Kannalam Village, Melmalaiyanur

Panchayat Union, Ginjee Taluk, Villupuram District.

For Petitioner : Mr.G.Rajan

For R1 to R4 : Mr.T.N.Rajagopalan
Government Pleader

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

V.Kanniappan, resident of Kannalam Village, Melmalaiyanur Taluk, Villupuram District, has filed this writ petition, seeking for a Mandamus to respondents 1 to 3, to consider his representation, dated 21.04.2018 and to take appropriate action, against the construction of Panchayat building for Kannalam Village, Melmalaiyanur Panchayat Union, Ginjee Taluk, Villupuram District.

2. The petitioner is having four acres of agricultural land, comprised in Survey Nos.123/5, 129/1A, 57/5, situated at Kannalam Village, Melmalayanur Taluk, Villupuram District. Respondents have decided to construct a Panchayat Office, for Kannalam Village, under NGRES Scheme. As there are two Panchayat buildings in the said place, construction of a third Panchayat Office building, for the same Village, would be waste of fund intended to maintain and develop the infrastructure of the Village.

3. Site selected by the respondents for construction, is situated near a grave yard of the Village. Apart from that, an existing building in which, a Milk Cooperative Society, was functioning is demolished, without any reason. The above aspects were highlighted, only to show that works taken up under the guise of public interest, is only a waste of public amount, and the same is swindled, in the name of carrying out public work by respondents 5 and 6.

4. The petitioner has further stated that the work itself is infected, with various illegalities and glaring procedural irregularities, which would vitiate the entire work of construction of Panchayat Office building. Building is constructed, near the grave yard and the same is causing trouble to the Village public.

5. The petitioner has further stated that, construction of panchayat office building, is carried out, in an arbitrary manner, even without calling for a public tender, which is in violation of NREGS Act and Scheme. On 21.04.2018, the petitioner, has sent a representation, to the respondents 1 to 3, to take immediate action, and to stop the construction of panchayat office building.

6. Responding to the notice, the Block Development Officer, Melmalayanur Panchayat Union, Villupuram, 6th respondent herein, has filed a detailed counter affidavit.

7. Mr.T.N.Rajagopalan, learned Government Pleader, submitted that there are hierarchy of Officials, both, on administrative and technical cadres, functioning from District level to Village level, to ensure adherence to the guidelines and quality, in execution of works and implementation of schemes, which are meant for the welfare of the common public. Periodical inspections are conducted every month, by the higher officials, including state level officers, to monitor the implementation of the works. There are annual inspections and annual audit from an external department and every singular record, is being verified and anything found, as deviation of the guidelines or detrimental to the welfare of the public or incurring loss or misappropriation, in the usage of public fund, objections raised are considered and erring persons are punished accordingly, as per the disciplinary rules in force.

8. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that the existing Panchayat Office Building in Kannalam Village, is nearly 25 years old and the ceiling of the building, was completely worn out and hence, usage of the building was stopped, since five years.

9. He further submitted that, a Village Panchayat Service Centre was constructed to serve the functioning of the Village Poverty Reduction Committee and Panchayat Level Self Help Group Women Federations in 2016. Functioning of the Panchayat Office was shifted to this building temporarily and the same was functioning till date. The grievance of the village public, was to construct, a new Panchayat Office building, for the village, and the same was pending. In the meanwhile, as per the Hon'ble Chief Minister announcement, in the Legislative Assembly and G.O.Ms.No.109, Rural Development and Panchayat Raj Department, Dated 01.09.2014 and G.O.Ms.No.109, Rural Development and Panchayat Raj Department, Dated 21.07.2017, a new Panchayat Office Building, was proposed to be constructed at Kannalam Village, under Mahatma Gandhi National Rural Employment Guarantee Scheme. Subsequently, the District Collector, Villuppuram District, accorded administrative sanction, vide B8/3684/2017 Dt.10.10.2017 and work order was issued by the Block Development Officer (VP), Melmalayanur, Vide E2/960/2017, dated 24.11.2017, for departmental execution, since execution through tender, is banned as per scheme guidelines.

10. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that the allegations in the petition, are not specific but general, without any concrete evidence, more personal and aggressive. The main contentions of the writ petitioner are as follows:-

1. The construction of the building was not proper and was not as per rules.

2. The building is away from public approach and is on the way go graveyard causing hindrance to the public.

3. The materials used in the construction are sub standard and basement is done with pillars instead of normal stone basement.

4. Machineries were used against law whereas the work is to be executed through manual labour.

5. Old steels were used in the construction.

6. The area engineer was not properly supervising the work.

7. The work was not executed through tender.

8. The construction of the building was not necessary to the village and hence should be cancelled.

9. If the work not stopped immediately he would file a court case in the Hon'ble High Court."

11. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that, on receipt of the petition, a detailed report, especially on the allegations regarding quality aspect, has been called from the Engineer concerned and the Block Development Officer (VP), Melmalayanur himself inspected the work. An enquiry among the public was also conducted, on the other allegations made in the petition, namely, hindrance to the public and not approachable to the public etc. and written statements have been obtained from the public.

12. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that all the inspection reports and enquiry statements, clearly indicate, that there was not an iota of truth, in the allegations stated in the writ petition, and they are totally baseless, misleading and done with an ulterior motive, to settle the petitioner's personal issues. Since the existing Panchayat Office building was not in use, and another building was meant for, VPRC, PLF and SHG functioning, requirement of a new panchayat office building is necessitated. The petitioner's statement is exaggerated and misleading.

13. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that since the new Panchayat Office building is very vital to the smooth and efficient functioning of the Panchayat

administration and the same has been selected to fulfill the long pending demand of the public at large, and with due diligence, it is being constructed, in adherence to the scheme guidelines, and quality is being ensured with due super check and inspections at every stage. The petitioner has approached this Court by suppressing all the facts and has depicted a false picture, with malicious intention of hampering the construction of the Panchayat Office building, and the averments made are against the sentiments of public, in the village and as such the writ petition is per se unfair, untenable, malicious with an ulterior motive, to settle his personal demand or issue.

14. Mr.T.N.Rajagopalan, learned Government Pleader, further submitted that every possible action has been taken, on the representation of the petitioner, with full fairness and transparency, notwithstanding the representation on the issue relating to the construction of the new Panchayat building, demand of the public, which the petitioner is opposing as a Public Interest Litigant, sanction has been accorded on 12.12.2017, for construction of a cattle shed under the same MGNREGS Scheme, to the petitioner on the individual beneficiary category, and that the same is under progress. For the abovesaid reasons, learned Government Pleader, sought for a dismissal of the instant writ petition.

15. Heard both the parties and perused all the materials available on record.

16. Record of proceedings shows that on 21.04.2018, the petitioner has made a representation to the District Collector/Chairman, Villupuram District. For brevity, the same is extracted hereunder:-

"From 21.04.2018
V.Kanniappan
S/o. Varadhan,
Kannalam Village,
Valathi Post, Melmalayanur Taluk
Villupuram District.
To
The District Collector/Chairman,
District Rural Development Agency,
Villupuram, Villupuram District.

Sir,

Sub: Construction activity were carrying on for putting up Panchayat building for Kannalam Village, Malmalaiyanur Taluk, Villupuram District, from the funds allotted under the National Rural Employing Guarantee 2018.

1. The construction activities are not carried in accordance with law.

2. The construction activities are carried in violation of law.

3. The building constructed here the grave yard and the same good cause hindrance to the village public during funeral ceremonies.

4. The materials deployed for the construction are law quality materials.

5. No proper foundation is laid, old and worn out iron rods are used for laying foundation.

6. The bricks, blue metals and sand used for construction are all of low qualities.

7. The work has to be carried out by deploying manual labors, whereas contrary to rules, JCB is deployed for digging foundation.

8. The building is being constructed with old iron rods.

9. One Narayanasamy is the area engineer for Kannalam Panchayats and he is not discharging the duty of property.

10. The value of the work is above 15 lacs for which calling for the tender is mandatory, whereas the construction work is carried down without calling for valid tender.

11. The area engineer did not come to the worksite given for one day all that is required by him to only bribe already there were two Panchayat building for Kannalam Panchayat and therefore the present building for Kannalam Panchayat and therefore the present building is not necessary.

Therefore, I request your authority to cancel the permission the construction Panchayat building at Kannalam Village in violation of statutory rules and if not I would proceed against you before High Court of madras."

17. Counter affidavit of the Block Development Officer (VP), Melmalaiyanur, Villupuram District/sixth respondent herein, and arguments advanced by Mr.T.N.Rajagopalan, learned Government Pleader, makes it abundantly clear as to why the

respondents have taken up construction of the new panchayat building.

18. In the Counter affidavit of the Block Development Officer (VP), Melmalaiyanur, Villupuram District/sixth respondent herein, has detailed the steps taken, for construction of panchayat office. Allegations of swindling of public money is bald and generalised. There are no merits in the writ petition and hence the same is dismissed. No Costs. Consequently, the connected miscellaneous petition is closed.
dm

Sd/-

Assistant Registrar (CS-CCC)

// True Copy//

Sub Assistant Registrar

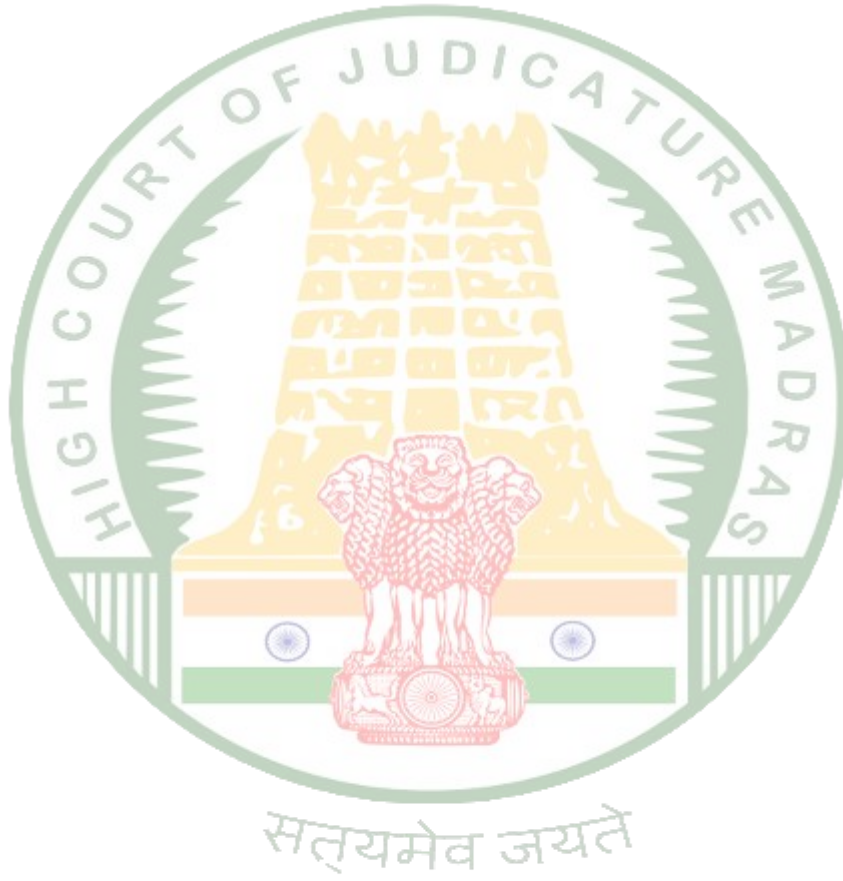
To

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- 2.The Director,
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- 6.The Block Development Officer,
Projects,
Melmalayanur Panchayat Union,
Villupuram District.

+ 1 CC TO MR.G.RAJAN, ADVOCATE SR 56715
+ 1 CC TO THE GOVT.PLEADER, SR 56559

KR/9/10/18

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