

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.10.2018

CORAM:

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

WP.No.26961 of 2018

S.Venkatesan

... Petitioner

vs.

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. The Secretary to Government,
Rural Development,
Secretariat, Chennai - 9.

3. The Director of Village Panchayat and
Rural Development,
Secretariat, Chennai - 9.

4. The District Collector,
Villupuram District,
Villupuram.

5. The Block Development Officer,
Mylam Panchayat Union,
Mylam, Villupuram District.

... Respondents

WRIT Petition filed under Article 226 of the Constitution of India, praying for the issuance of a writ of Mandamus, directing the respondents to declare the Nedi Village as a separate village Panchayat by bifurcating Nedimohiyanur Village Panchayat within a time stipulated by this Hon'ble Court and also divide the boundaries separately for Nedi Panchayat.

For Petitioner : Mr.G.Mohammed Aseef

For Respondents : Mr.T.N.Rajagopalan,
Government Pleader.

ORDER

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

Petitioner has sought for a mandamus, directing the respondents to declare Nedi Village as a separate village Panchayat by bifurcating Nedimohiyanur Village Panchayat within a time stipulated by this Hon'ble Court and also divide the boundaries separately for Nedi Panchayat.

2. On this day, when the matter came up for hearing, Mr.T.N.Rajagopalan, learned Government Pleader is put on notice. With the consent of the parties, writ petition is disposed of as hereunder.

3. By inviting the attention of this Court to an order made in W.P.No.1358 of 2017 dated 19.01.2017, by the Hon'ble First Bench, Mr.T.N.Rajagopalan, learned Government Pleader submitted that the instant writ petition is not maintainable and liable to be dismissed.

4. In the said W.P.No.1358 of 2017, petitioner therein has sought for a writ of mandamus, directing respondents 1 to 4 therein to initiate and take action regarding petitioner's representation dated 14.10.2016.

5. Hon'ble First Bench ordered thus.

"The petitioner has been repeatedly representing seeking bifurcation of Ward No.18 of Avadi Municipality, Avadi, Thiruvallur District, but that has not found favour with the respondent authorities.

2. We are of the view that there cannot be any direction given necessarily to bifurcate the ward because the petitioner so desires and it is for the respondent authorities to take a call as to when there is necessity of bifurcating a ward. A formal communication, however, be sent to all the petitioner on the representations of the petitioner qua the aforesaid issue."

6. Though, in the instant writ petition i.e. W.P.No.26961 of 2018, petitioner has sought for a mandamus and following the order of a Hon'ble Division Bench of this Court in W.P.No.1358 of 2017 dated 19.01.2017, instant writ petition can also be disposed of on the abovesaid grounds, yet considering the material on record, which we proposed to discuss in the later paragraphs of the judgment, same is not done.

7. Heard the learned counsel for the petitioner and the learned Government Pleader appearing for the respondents.

8. Earlier, when the petitioner filed W.P.No.3145 of 2017, for a mandamus, directing the respondents 1 to 5 therein to declare Nedi Village as a separate Village Panchayat by bifurcating Nedimohiyanur Village Panchayat, considering his representation dated 15.07.2016, a Hon'ble Division Bench of this Court vide order dated 08.02.2017, in WP.No.3145 of 2017, directed the representation of the petitioner dated 15.07.2016, to be disposed of by the District Collector, Villupuram District, Villupuram, within a period of two months from the date of receipt of a copy of that order.

9. Material on record further discloses that after considering the views of the villagers, vide proceedings in R.C.No.A1/1206/2017 dated 04.07.2017, Tahsildar, Tindivanam, has sent a report to the District Collector, Villupuram, (via) Sub-Collector, Tindivanam and the same reads thus.

"Sub:- Case- WP No.3145/2017 - Separate Panchayat - Tindivanam Taluk - Rettanai Sub-Taluk - V.No.142, Nedimozhiyanur Village to separate Nedi Village from Nedimozhiyanur and request to notify the same - case filed before the Madras High Court - Judgment received - sending of report - regarding.
Ref: - 1. Judgment dated 8.5.2017 in W.P.No.3145/2017 of Madras High Court.
2. Na.Ka.No.H2/7299/2017 dated 20.3.2017 of the District Collector, Villupuram.
3. Report of the Revenue Inspector, Sub.Taluk Rettani, Tindivanam Taluk L.A.483/17 dated 30.6.2017.

Based on the receipt of the Judgment in case No.W.P.No.3145/2017 filed by Mr.S.Venkatesan, Son of Subbarayan before the Madras High Court and who belonged to Nedi Village praying for notifying Nedi Village as a separate Panchayat by dividing it from Nedi Mozhiyanur Village, Rettanai Sub-Taluk, Tindivanam Taluk, I held the enquiry and submit my report as follows:-

In Nedimozhiyanur Village of Dindivanam Taluk about 5700 people are residing. In this part called as Nedi about 2200 men and in the Village part of Mozhiyanur 3500 public are living in all there are 5 polling booth installed about 3902 voters are there in it in the 2 polling booths in Nedi Village there are

about 1445 voters. Further in the Nedi portion there are 459 houses, 461 Family Cards and even there is a separate Fair Price Shop. In Nedi Village portion there are also Primary School and Government High School. The distance between Nedi and Mozhiyanur Villages is about 2 k.m. In both village portions polling Booths are setup.

Both the portions together in terms of the topographical extent of the Village called Nedimozhiyanur as follows:-

Dry Area	- 461-16.6 Hectare
Wet land area	- 193.16.5 Hectare
Wet land area uncultivated	- 0.07.5 hectare
Dry land uncultivated area	- 0.02.0 hectare
Poromboke area	- 144.08.0 hectare.

Thus a total geological land area is 800.50.5 Area. In the Mozhiyanur Village the Varaha River barrage cannal and a lake is under the control of the Mylam Panchayat Union. Since the distance between the Nedi Village and Mozhiyanur Village about 2 k.m. If in accordance with the request of the Village public, the Nedi Village is altered into a separate Panchayat it will be helpful for the public residing there to approach the Panchayat council easily and get the appropriate basic facilities. I therefore humbly informed that the needful may be done for dividing the Nedi Area from the Nedhi Mozhiyanur Village as a separate Panchayat. I also humbly inform the boundary limits in after receipt of the G.O. appropriate action may be taken relating to the setting up Nedhi Village as a separate Village by changing on that basis.

I have attached with this the report of the Rettanai, Revenue Inspector and the Nedi Mozhiyanur Village accounts and sketch copies herewith and sent."

10. Subsequently, the petitioner has made a representation dated 08.06.2017 and acting on the same District Collector, Tindivanam, vide proceedings in O.Mu.(A1/1621/2017) dated Nil.07.2017, has directed Tindivanam, Special Tahsildar, to bestow his special attention and send a proposal within one week thereafter.

11. Assistant Director (Panchayat), Villupuram, in his proceedings R.C.No.A5/1259/2016 dated 07.11.2017, has sent a letter to the writ petitioner with a copy marked to the District Collector (H2 Section), Villupuram. Said letter dated 07.11.2017 addressed to the petitioner is reproduced.

"Sub: - W.P.No.3145/2017 - Villupuram District - Mylam Panchayat Union - Division of Nedi Mozhiyanur Panchayat

into separate Panchayats as Nedi and Mozhiyanur -
receipt of Judgment -
Regarding.

Ref: - 1. G.O.(D) No.131, Rural Development and
Panchayat Raj

(C1) Department dated 16.3.2007.

2. Order in Writ Petition No.3145/2017 dated
8.2.2017 by

the Hon'ble Madras High Court.

3. Ref.No.A1 by 404/2017 dated 21.4.2017 of the
Block

Development Officer (Branch Panchayat) (Incharge)

Panchayat Union, Mylam.

W.P.No.3145/2017 was filed before the Hon'ble
Madras High Court by Mr.S.Venkatesan, by stressing the
prayer that the Nedi Mozhiyanur Panchayat in Mylam
Panchayat Union, Villupuram District as to be
separated into two individual Panchayats as Nedi and
Mozhiyanur.

The Judgment in the case was delivered as
mentioned in Ref.No.2.

The Block Development Officer, (B.P.) had
submitted his

proposal in this connection as mentioned in Ref.No.3
of Mylam Panchayat Union.

As per the Rules and Regulations described in the
G.O.No.(D) 131 Rural Development and Panchayat (C1)
Department dated 16.3.2017 relating to Division of
Panchayats, it is stipulated as per the Rules and
Regulations of the Tamil Nadu Panchayat Act that a
meeting has to be conducted by the District Collector
of hearing the public opinion and prior notice has to
be sent to the Member of Parliament, Member
Legislature, and Rural Administration, President and
District Secretaries of the approved parties and
famous N.G.Os and residential committees and conduct a
preliminary joint conference and further action should
be taken.

Hence, the petitioner is informed that since the
vacancies for filling up the representatives of the
Local Administration through a Local election, after
the completion of the Local Election regarding this
subject action will be taken up."

12. Thus, from the above, it could be seen that on the

representation of the petitioner, steps have been taken and accordingly, petitioner has been communicated. Since, vide order in W.P.No.3145 of 2017 dated 08.01.2017, District Collector, Villupuram District, respondent herein has been directed to dispose of the representation of the petitioner, we direct that the same may be done as expeditiously as possible, within a period of two weeks from the date of receipt of a copy of this order.

13. With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

ars/dm

To

1. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

2. The Secretary to Government,
Rural Development,
Secretariat, Chennai - 9.

3. The Director of Village Panchayat and
Rural Development,
Secretariat, Chennai - 9.

4. The District Collector,
Villupuram District,
Villupuram.

5. The Block Development Officer,
Mylam Panchayat Union,
Mylam, Villupuram District.

+1cc to the Government Pleader, S.R.No.71144

WP.No.26961 of 2018

GP(CO)
GSP(15/11/2018)