



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
and
THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P (MD) No.23124 of 2017

S.Vellusamy

.. Petitioner

Vs.

- 1.The District Collector,
O/o.District Collector Office,
Thoothukudi District.
- 2.The District Adi Dravidar Welfare Officer,
Ground Floor,
District Collectorate,
Thoothukudi District.
- 3.The Project Director,
District Project Office,
Thoothukudi District.
- 4.The Block Development Officer,
(Village Panchayats), B.D.O. Office,
Karunkulam,
Thoothukudi District.
- 5.The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.

.. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent No.1 and 3 to consider the representation made by the petitioner dated 20.11.2017 to construct the new Panchayat Office in Government Vacant Land situated in Patta No.781, Survey No.236/1A, 237/2B at Poovani Village, Karunkulam Panchayat Union, Thiruvaigundam Block, Thoothukudi District, which is the common place for all the three villages in Poovani Panchayat within a stipulated time.



For Respondents : Mr.C.M.Mari Chellaiah Prabu,
1 to 3 & 5 Addl. Government Pleader

For 4th respondent : Mr.S.Chandrasekar

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ORDER

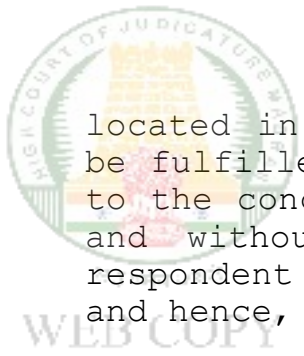
[Order of the Court was made by M.SATHYANARAYANAN, J.]

By consent, this writ petition itself is taken up for final disposal.

2. Mr.C.M.Mari Chellaiah Prabu, learned Additional Government Pleader, takes notice on behalf of the respondents 1 to 3 and 5, and Mr.S.Chandrasekar, learned counsel, takes notice on behalf of the 4th respondent.

3.The petitioner is a resident of Melapoovani Village, Karunkulam Panchayat Union, Tuticorin District and he has filed this writ petition as a Public Interest Litigation stating among the other things that there are three hamlets viz., Melapoovani, Keelapoovani and Lakshmipuram and those hamlets are located in Poovani Panchayat. The petitioner would further state that there are nearly 1500 families are residing in Melapoovani and Lakshmipuram hamlets, and 1000 families are residing in Keelapoovani hamlet and the said hamlet is located 5 k.m. away from Melapoovani hamlet and 2.5 k.m. away from Lakshmipuram hamlet. The petitioner also expressed his grievance that right from the year 1979, all the Government Offices are only located in Keelapoovani village and despite several representations made and hectic efforts, no Government offices are located in Melapoovani Village and as a consequence, no developmental activities are taking place in the said hamlet and that apart, even for getting a basic facility or addressing a basic need, they have to travel to Keelapoovani Village and it is also added to the difficulty of the local residents. The petitioner came to understand that a proposal has been made to construct a new Panchayat Office building and once again, it is also sought to be located at Keelapoovani hamlet and in this regard, joint representations were submitted by the village people of Melapoovani Village on 23.10.2017 and 20.11.2017 and that apart, a representation, dated 26.11.2017, was also submitted to the Hon'ble Chief Minister Special Cell and it is also followed by resolution of the Panchayat, dated 13.11.2017. Despite receipt of representations, no mercy whatsoever was shown by the concerned officials to locate the new Panchayat Office in Melapoovani hamlet. Hence, he came forward to file this writ petition.

4. Mr.R.Ganesh Prabu, learned counsel appearing for the petitioner, made a vehement and forcible submissions by drawing the attention of this Court to the typed set of documents and would submit that the grievance of Melapoovani village is that at-least any one of the Government Offices, even if a small one, would be



located in their village, so that their long-standing demand would be fulfilled and they are also ready to extend maximum co-operation to the concerned department for locating the new Panchayat building and without understanding their plight and sentiments, the 4th respondent is locating the land, once again, in Keelapoovani Village and hence, he prays for appropriate orders.

5. Per contra, the learned counsel appearing for the 4th respondent has drawn the attention of this Court to the counter affidavit as well as the typed set of documents and would submit that as per the proceeding of the District Collector of Tuticorin, dated 23.08.2017, in Na.Ka.A11/6323/2017, administrative sanction has been accorded to put up a new superstructure for the new Panchayat Office under MGNREGS scheme and thereafter, to demolish the existing old structure. He would further add that since the Government / Local Body Offices are located in the said place, it is easy for the needy public to get redressal of their grievance and thus, he prays for appropriate orders.

6. This Court has carefully considered the rival submissions made on either side and perused the materials placed before it.

7. It is a well settled position of law, as enunciated by the Hon'ble Supreme Court of India in a catena of decisions, that this Court cannot embark upon the policy decision of the concerned authority in exercise of its jurisdiction under Article 226 of the Constitution of India, unless the said decision or act is actuated with *mala fide* or vitiated on account of arbitrary exercise of power and this Court cannot specifically direct the concerned official / respondent to locate a Government Office in the particular place.

8. It is also the submission of the learned counsel appearing for the 4th respondent that as per proceedings of the first respondent, dated 23.08.2017, the new Panchayat Office building is going to be constructed out of MGNREGS funds and since, admittedly, Melapoovani hamlet is located just 5 k.m. away from Keelapoovani hamlet and it is also well connected through public transportation, the petitioner, who claims to be a resident of Melapoovani hamlet, cannot express any grievance.

9. In the light of the above said position, this Court cannot issue any positive direction for location of the new Panchayat Office building in Melapoovani hamlet. It is also brought to the knowledge of this Court by the learned counsel for the petitioner that most of the residents of Melapoovani Village are poor and hailing from downtrodden community, and it is their dream, at-least a Government / Local Body Office has to be located in their village and they are fighting for the said cause from the year 1979 onwards. Taking into consideration of the said request of the resident of Melapoovani hamlet sympathetically, the respondents, in the event of locating any other Government / Local Body Offices, may consider to locate the same in Melapoovani hamlet.



10. This writ petition is disposed of, with the above observation. No costs.

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/True Copy/

Sd/-
Assistant Registrar (AS)

Sub-Assistant Registrar

To

1. The District Collector,
O/o. District Collector Office,
Thoothukudi District.
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 3. The Project Director,
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 4. The Block Development Officer,
(Village Panchayats), B.D.O. Office,
Karunkulam,
Thoothukudi District.
 5. The Tahsildar,
Srivaikundam Taluk,
Thoothukudi District.
- +One cc to Mr.S.Vanchinathan, Advocate, SR.No.42193
- +One cc to Mr.S.Chandrasekar, Advocate, SR.No.42387
- +One cc to The Special Government Pleader, SR.No.42449

gcg
RL/9C/4P/KKR/SAR1/2/2/2018

ORDER MADE IN
W.P (MD) No.23124 of 2017