



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
Dated :27.09.2018  
CORAM

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THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA  
AND  
THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

W.A. (MD)No.1262 of 2018  
and  
C.M.P (MD)No.8826 of 2018

- 1.The District Collector,  
Sivagangai,  
Sivagangai District.
- 2.The Project Director,  
Rural Development Agency,  
Sivagangai,  
Sivagangai District.
- 3.The Block Development Officer,  
Thiruppuvanam Panchayat Union,  
Thiruppuvanam,  
Sivagangai District.
- 4.The Special Officer,  
Melasorikulam Panchayat,  
Thiruppuvanam Taluk,  
Sivagangai District.

.. Appellants / Respondents

Vs.

S.Muthu

.. Respondent / Petitioner

Prayer : Writ Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P(MD)No.2319 of 2018 dated 17.04.2018 by allowing the writ appeal.

**Prayer in WP(MD)No. 2319/ 2018 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus to direct the Respondents to disburse the payment under the scheme of Indra Awas Yojana (IAY) as per proceedings and work order passed by the 3rd and 4th Respondents in Na.Ka.Pi5/926/15 dated 17.08.2016 and Na.Ka.Pi5/2762/216 dated 07.11.2016 respectively, so as to enable the petitioner to continue and complete the house building works, based on the representation dated 27.01.2018.



For Appellants

: Mrs.J.Padmavathi Devi,  
Special Government Pleader

For Respondent

: Mr.D.Rameshkumar for  
Mr.T.Veerakumar

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**JUDGMENT**

**[Judgment of the Court was delivered by  
PUSHPA SATHYANARAYANA, J.]**

This writ petition is filed challenging the order passed by the learned single Judge in W.P(MD)No.2319 of 2018 dated 17.04.2018.

2. The brief facts of the case are as follows:

(i) The respondent / writ petitioner was one of the beneficiaries to construct a house under the Indira Awaas Yojana (IAY) Scheme. As per the said Scheme, the writ petitioner was selected as a beneficiary vide order dated 17.08.2016 for construction of a Scheme House under the Village Housing Programme. The writ petitioner was also issued with a work order on 07.11.2016 assessing the value at Rs.1,70,000/-. Thereafter, the writ petitioner had addressed to the appellant / respondents for release of funds to complete the construction. However, there was no response.

(ii). Subsequently, on 20.12.2016, the third appellant, namely, the Block Development Officer, Thiruppuvanam Panchayat Union, had cancelled the allotment given in favour of the respondent / writ petitioner under the IAY Scheme 2015-2016. The reason given by the third appellant is that respondent / writ petitioner is not entitled for the benefit under the IAY Scheme as he had constructed the house upto roof level on his own. Under the Scheme, funds would be released to the beneficiary in three stages after verifying the stage. As the respondent / writ petitioner had constructed the house upto roof level, the cancellation order was passed as the appellants / respondents could not take the measurement at each stage. Challenging the said order of cancellation, the writ petition was filed.

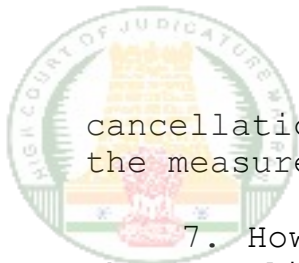
3. The learned single Judge had allowed the writ petition directing the respondents to release necessary funds to the writ petitioner as per the Scheme.

4. Aggrieved by the same, the Government have preferred the above writ appeal.

5. We have heard the submissions made on either side and perused the materials placed before us.

<https://hcservices.ecourts.gov.in/hcservices/>

6. A perusal of the cancellation order dated 20.12.2016 passed by the third appellant shows that the only reason given for



cancellation is that as the construction had already been completed, the measurement could not be taken.

7. However, it is the case of the respondent / writ petitioner that earlier, the place where he was allotted, there was an old dilapidated structure, which had to be pulled down and new structure had to be put up. He had put up the new structure, as no funds had come from the appellant. In fact, IAY Scheme has given guidelines for the appellants to follow. As per the guidelines, Chapter IV relates to 'Implementation of IAY Scheme'. Clause 4.12 of the Scheme relates to 'stages of construction and release of instalments'. It says that the number of instalments given to beneficiaries should be fixed at three. The release of instalments should be linked to the level of construction reached. The first instalment should be given on the Awaas Divas along with the sanction order and the same should not be more than 25% of the unit cost.

8. But, in the present case, though the appellants had issued the work order on 07.11.2016, admittedly, the first instalment did not accompany the said order.

9. When the required funds for construction is not released on time, the respondent had completed the construction. It cannot be stated that the beneficiary should await for the amount to be given and one should not mobilise funds on his own and complete the construction.

10. The Scheme does not envisage such kind of a condition and the learned Special Government Pleader could not point out any such impediment in the guidelines provided. Having not followed the guidelines in its true letter and spirit, the Government cannot deprive the writ petitioner, who is entitled for the benefits under the Scheme.

11. The appellants having chosen the respondent as a person eligible to get the benefit, had abruptly cancelled the same without even giving valid reasons.

12. The appellants had failed to even understand the importance of the Scheme as the very Scheme is introduced on the basis that housing is a fundamental human need. Having a dwelling house increases the standard of living of any individual and being a Welfare State every citizen is entitled for a house. Even if they are unable to afford it own, they are benefited through such Schemes as mentioned above.

13. In the light of the above discussions, we are of the considered view that there is no reason to interfere with the order of the learned single Judge, who has rightly allowed the writ petition and given a direction to the appellants to release necessary funds under the Scheme, after giving a time frame.



14. In the result, the writ appeal is dismissed and the order passed by the learned single Judge in W.P(MD)No.2319 of 2018 dated 17.04.2018, is hereby confirmed. The appellants are directed to comply with the order within a period of four weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petition is closed.

Sd/-  
Assistant Registrar(T&P)

/True Copy/

Sub Assistant Registrar(CS-I)

To

- 1.The District Collector,  
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Sivagangai District.

+1CC to Mr.T.Veerakumar, Advocate, SR.No. 87359  
+1CC to the Special Government Pleader SR.No.87572

W.A(MD)No.1262 of 2018  
27.09.2018

PM  
ES/SKN/RSK/SAR 1/25.10.2018/4P/7C