



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2018

CORAM:

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

W.P (MD) No.14191 of 2016

Ponnuraj

... Petitioner

Vs.

1. The Secretary to Revenue Department,
Tamil Nadu Government,
Chennai.
2. The District Collector,
Thoothukudi District,
Thoothukudi.
3. The District Revenue Officer,
Thoothukudi District,
Thoothukudi.
4. The District Collector,
Tirunelveli District,
Tirunelveli.
5. The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to add all the Government and quasi Government Departments and offices of 12 Villages (1) Pitchaithalaivanpatti, (2) Appaneri, (3) Vadakupatti, (4) Lekshmiammalpuram, (5) Nakkalamuthanpatti, (6) Pillaiyarnatham, (7) Ayyaneri, (8) Mukkoottumalai, (9) Ilayarasanendal, (10) Jamin Devarkulam, (11) Chithirampatti and (12) Puliangulam in Ilayarasanendal Firka to bring under the jurisdiction of newly formed Thiruvengadam Taluk in Tirunelveli District.

For Petitioner
For Respondents

: Mr.F.X.Eugene
: Mr.A.K.Baskara Pandian,
Special Government Pleader.

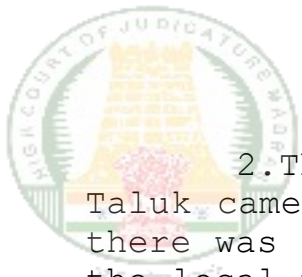
**ORDER**

(Order of the Court was made by

M. SATHYANARAYANAN, J.)

This Writ Petition is filed by the writ petitioner, as a Public Interest Litigation, as a resident of Ilayarasanendal, Kovilpatti Taluk, Thoothukudi District, stating among other things that originally his Village was in Sankarankovil Taluk, Tirunelveli District and after realignment of the erstwhile Tirunelveli District, 12 Villages in Ilayarasanendal Firka were added to Kovilpatti Taluk, Thoothukudi District and came into force with effect from 01.05.2008. The petitioner would further state that even though after the bifurcation and realignment of the said 12 Villages were added to Kovilpatti Taluk in Thoothukudi District, the concerned Departments functioning were not divided or shifted accordingly and therefore, the residents of 12 Villages in Ilayarasanendal Firka have to take a long trip to go to different Departments for redressal of their grievances and the petitioner in paragraph No.3 of the affidavit has also pointed out that and the same is extracted hereunder:-

S.No.	Department	Head Quarters	District
1.	Revenue	Kovilpatti Taluk	Thoothukudi District
2.	Police	Kovilpatti Taluk	Thoothukudi District
3.	Health (allopathy)	Kovilpatti	Thoothukudi District
4.	Anganwadi	Kovilpatti	Thoothukudi District
5.	Education (Hr. Secondary)	Kovilpatti	Tirunelveli District
6.	Civil bodies Panchayat	Kuruvikulam	Tirunelveli District
7.	PWD	Sankarankovil	Tirunelveli District
8.	TWAD	Sankarankovil	Tirunelveli District
9.	E.B	Thiruvengadam	Tirunelveli District
10.	Noon meal	Kuruvikulam	Tirunelveli District
11.	Education (Primary and Middle School)	Tirunelveli	Tirunelveli District
12.	Health (Sidha)	Tirunelveli	Tirunelveli District
13.	Assembly Constitution	Sankarankovil	Tirunelveli District
14.	Parliamentary Constitution	Tenkasi	Tirunelveli District

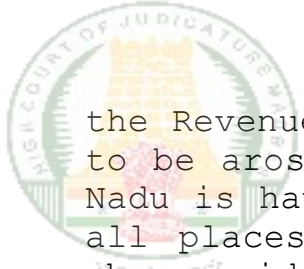


2.The petitioner would further aver that a new Revenue Taluk came to be formed namely 'Thiruvengadam Taluk'. Once again, there was a proposal for realignment and therefore, the opinion of the local people was also called for by the Tahsildar, Kovilpatti. While so, in Notification, dated 06.05.2014, majority of them expressed their opinion to join with the proposed Thiruvengadam Taluk in Tirunelveli District. The concerned Village Panchayat boards also passed resolutions and expressed their opinion in joining with Thiruvengadam Taluk, Tirunelveli District. Despite such a majority opinion of realignment, no action was taken in aligning 12 Villages in Ilayarasanendal Firka with the Thiruvengadam Taluk. With regard to the same, the petitioner has also submitted a representation, dated 19.01.2016 to the second respondent and also to the concerned officials by registered post including to the Chief Minister's Cell. That apart, all the Panchayats in the Firka also, passed unanimous resolutions, to adhere their relevant Panchayats, to the same proposed Thiruvengadam Taluk in Tirunelveli District and now, the said Taluk also formed and came into existence, however, no action has been taken to add 12 Villages in Ilayarasanendal Firka into Thiruvengadam Taluk, Tirunelveli District.

3.The main grievance expressed by the petitioner is that in the light of the unanimous opinion of the residents of 12 Villages to align with Thiruvengadam Taluk, Tirunelveli District, the first respondent ought to have passed appropriate orders for such a realignment and without understanding the public sentiments and difficulties faced by them, to go around various places for redressal of their grievances and hence, he came forward to file a Writ Petition, as a Public Interest Litigation.

4.Mr.F.X.Eugene, learned counsel appearing for the petitioner has drawn the attention of this Court to the typed-set of documents and would submit that for the welfare and convenience of the people of the said locality is utmost important and originally 12 Villages in Ilayarasanendal Firka were in Tirunelveli District and on formation of cities, it was realigned and subsequently, Thiruvengadam Taluk in Tirunelveli District came to be formed and all the 12 Panchayat Boards had passed a unanimous resolution to realign Thiruvengadam Taluk and the people of the locality have also expressed their desire to do so and though the said fact was brought to the knowledge of the concerned officials through personal representations as well as written representations, no action has been taken so far, taking into consideration their sentiments and therefore, the petitioner is constrained to approach this Court by filing this Writ Petition.

<https://hcservices.ecourts.gov.in> 5.On 15.01.2017, Mr.A.K.Baskara Pandian, learned Special Government Pleader appearing for the respondents would submit that the realignment of the Taluk falls within the exclusive domain of



the Revenue Department and in such cases, minor difficulties found to be arose and in the light of the fact that the State of Tamil Nadu is having excellent transport facilities and communication to all places, there may not be any difficulty on the part of the above said 12 Villagers to go to the concerned officers, for redressal of grievances and this Court in exercise of its jurisdiction under Section 226 of the Constitution of India may not interfere with the executive decision taken by the Government for alignment/realignment of the said 12 Villages and prays for dismissal of the Writ Petition.

6.The learned Special Government Pleader has also brought to the knowledge of this Court, regarding G.O.Ms.No.98, Rural Development and Panchayat Raj Department, dated 01.09.2017 in and by which, the following 12 Villages, namely Pitchaithalaivanpatti, Appaneri, Vadakupatti, Lekshmiammalpuram, Nakkalamuthanpatti, Pillaiyarnatham, Ayyaneri, Mukkoottumalai, Ilayarasanendal, Jamin Devarkulam, Chithirampatti and Puliangulam have been transferred from Sankarankovil Taluk, Tirunelveli District to Kovilpatti Taluk, Thoothukudi District and challenging the said legality W.P (MD)No.17626 of 2017 has also been filed and in the light of the same nothing survives for adjudication in this Writ Petition.

7. This Court has considered the submissions made by the learned counsel on either side. The scope for entertainment of the Public Interest Litigation, came up for consideration before the Honourable Supreme Court of India very many times and it is usefully relevant to refer to the decision of the Honourable Apex Court in **Ramsharan Autyanuprasi and another Vs. Union of India and others** reported in **(1989 Supp (1) Supreme Court Cases 251)**, wherein, the nature of Public Interest Litigation in the light of Articles 21, 32, 49 and 51-A(f) of the Constitution of India, came up for consideration and in paragraph No.15 it is observed as follows:-

"It is imperative to lay down clear guidelines and outline the correct parameters for entertaining PIL petitions. If Courts do not restrict the free flow of such cases in the name of Public Interest Litigations, traditional litigation along with justice would suffer. It is only when Courts are apprised of gross violation of fundamental rights by a group or a class action or when basic human rights are invaded or when there are complaints of such acts as shock the judicial conscience that the Courts, especially the Supreme Court, should leave aside procedural shackles and hear such petitions and extend its jurisdiction under all available provisions for remedying the hardships and miseries of the needy, the underdog and the neglected (emphasis supplied)."



8. In **Ashok Kumar Pandey Vs. State of West Bengal and others** reported in **(AIR 2004 SC 280)**, wherein, the scope of entertainment of the Public Interest Litigation came up for consideration and it is relevant to extract hereunder:-

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"Public Interest Litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity seeking is not lurking. It is to be used as an effective weapon in the armory of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity oriented or founded on personal vendetta. The Court must be careful to see that a body of persons or member of public, who approaches the Court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The Court must not allow its process to be abused for oblique considerations. The Court has to be satisfied about (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike balance between two conflicting interests; (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the Court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the Executive and the Legislature. The Court has to act ruthlessly while dealing with imposters and busy bodies or meddlesome interlopers impersonating as public spirited holy men. They masquerade as crusaders of Justice. They pretend to act in the name of Pro Bona Publico, though they have no interest of the public or even of their own to project. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busy bodies deserve to be thrown out by the Court at the threshold, and in appropriate cases with exemplary costs."



9. The same issue arose for consideration in the Judgment in **Jaipur Shahar Hindu Vikas Samiti Vs. State of Rajasthan and others** reported in **2014 (5) SCC 530**, it is relevant to extract paragraph No.49 of the Judgment hereunder:-

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"49. The concept of public interest litigation is a phenomenon which is evolved to bring justice to the reach of people who are handicapped by ignorance, indigence, illiteracy and other downtrodden people. Through the public interest litigation, the cause of several people who are not able to approach the Court is espoused. In the guise of public interest litigation, we are coming across several cases where it is exploited for the benefit of certain individuals. The Courts have to be very cautious and careful while entertaining public interest litigation. The judiciary should deal with the misuse of public interest litigation with iron hand. If the public interest litigation is permitted to be misused the very purpose for which it is conceived, namely, to come to the rescue of the poor and downtrodden will be defeated. The Courts should discourage the unjustified litigants at the initial stage itself and the person who misuses the forum should be made accountable for it. In the realm of public interest litigation, the Courts while protecting the larger public interest involved, should at the same time have to look at the effective way in which the relief can be granted to the people whose rights are adversely affected or are at stake. When their interest can be protected and the controversy or the dispute can be adjudicated by a mechanism created under a particular statute, the parties should be relegated to the appropriate forum instead of entertaining the Writ Petition filed as public interest litigation."

10. It is very relevant to cite the Judgment in **Common Cause (A Registered Society Vs. Union of India and others** reported in **2008 (4) Scale SCC 848**, wherein, a Public Interest Litigation was filed by common cause praying for appropriate mechanism to set up full statutory and license of drivers extra and very many Judgments have been referred to and one cited Judgment is **Union of India Vs. Association for Democratic Reforms and another** reported in **(2002) 5 SCC 294** and it is relevant to extract paragraph No.46 (6) hereunder:-

"46(6). On cumulative reading of plethora of decisions of this Court as referred to, it is clear that if the field meant for legislature and executive is left unoccupied detrimental to the public interest, this Court would have ample jurisdiction under Article 32 read with Articles 141 and 142 of the Constitution to issue



necessary directions to the executive to subserve public interest (emphasis supplied)."

11. The Honourable Supreme Court of India in the above cited decision, after taking into consideration its earlier decision, made the following observation and it is relevant to extract hereunder:

"H. Moreover, it must be realized by the Courts that they are not equipped with the skills, expertise or resources to discharge the functions that belong to the other co-ordinate organs of the Government (the legislature and executive). Its institutional equipment is wholly inadequate for undertaking legislation or administrative functions.

N. Apart from the doctrine of separation of powers, Courts must realize that there are many problems before the country which courts cannot solve, however much they may like to.

T. The justification given for judicial activism is that the executive and legislature have failed in performing their functions. Even if this allegation is true, does it justify the judiciary in taking over the functions of the legislature or executive? In our opinion it does not, firstly because that would be in violation of the high constitutional principle of separation of powers between the three organs of the State, and secondly because the judiciary has neither the expertise nor the resources for this. If the legislature or executive are not functioning properly it is for the people to correct the defects by exercising their franchise properly in the next elections and voting for candidates who will fulfil their expectations, or by other lawful means e.g. peaceful demonstrations and agitations, but the remedy is surely not by the judiciary in taking over the functions of the other organs.

U. The directives sought for in this petition require the expertise of administrative and technical officials, apart from financial resources. Not only should the Court not give such directives because that would violate the principle of separation of powers, but also because these are highly technical matters to be left to be dealt with by administrative and technical authorities who have experiences and expertise in the matter.

W. Moreover, if once the Courts take upon themselves the task of issuing ukases as to how administrative agencies should function, what is there to prevent them from issuing directions as to how the State Government or Central Government should administer the State and run the Country? In our opinion such an



approach would not only disturb the delicate balance of powers between the three wings of the State, it would also strike at the very basis of our democratic polity which postulates that the governance of the Country should be carried on by the executive enjoying the confidence of the legislature which is answerable and accountable to the people at the time of elections.

X.....The Country can ill afford to be governed through Court decrees. Any such attempt will not only be grossly undemocratic, it would be most hazardous as the Courts do not have the expertise or resources in this connection. The judiciary is not in a position to provide solutions to each and every problem.

DD.The people must know that Courts are not the remedy for all ills in society. The problems confronting the nation are so huge that it will be creating an illusion in the minds of the people that the judiciary can solve all the problems.

GG.The view that the judiciary can run the Government and can solve all the problems of the people is not only unconstitutional, but also it is fallacious and creates a false impression and false illusion that the judiciary is a panacea for all ills in society.

II.Unfortunately, the truth is that PILs are being entertained by many Courts as a routine and the result is that the dockets of most of the superior Courts are flooded with PILs, most of which are frivolous or for which the judiciary has no remedy. As stated in **Dattaraj Nathuji Thaware's case** (supra), public interest litigation has nowadays largely become 'publicity interest litigation', 'private interest litigation', or 'politics interest litigation' or the latest trend 'paise income litigation'. Much of P.I.L is really blackmail.

(47)37. We have gone deep into the subject of judicial activism and public interest litigation because it is often found that Courts do not realize their own limits. Apart from the doctrine of separation of powers, Courts must realize that there are many problems before the Country which Courts cannot solve, however much they may like to. It is true that the expanded scope of Article 14 and 21 which has been created by this Court in various judicial decisions e.g., Smt. Maneka Gandhi vs. Union of India and another AIR 1978 SC 597, have given powerful tools in the hands of the judiciary. However, these tools must be used with great circumspection and in exceptional cases and not as a routine manner. In particular, Article 21 of the

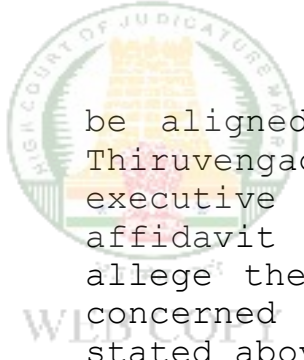
<https://hcservices.courts.gov.in/hcservices/> must not be misused by the Courts to justify every kind of directive, or to grant every kind of claim of the petitioner. For instance, this Court has



held that the right to life under Article 21 does not mean mere animal existence, but includes the right to live with dignity vide **Olga Tellis vs. Bombay Corporation AIR 1986 SC 180**, **D.T.C vs. D.T.C Mazdoor Congress Union AIR 1991 SC 101 (paras 223, 224, 259)** **Francis Coralie Mullin Vs. Union Territory Delhi Administrator AIR 1981 SC 746**. However, these decisions must be understood in a balanced way and not in an unrealistic sense. For example, there is a great deal of poverty in this Country and poverty is destructive of most of the rights including the right to a dignified life. Can then the Court issue a general directive that poverty be abolished from the Country because it violates Article 21 of the Constitution? Similarly, can the Court issue a directive that unemployment be abolished by giving everybody a suitable job? Can the Court stop price rise which now-a-days has become an alarming phenomenon in our Country? Can the Court issue a directive that corruption be abolished from the Country? Article 21 is not a 'brahmastra' for the judiciary to justify every kind of directive.

(54) 44. Moreover, if once the Courts take upon themselves the task of issuing ukases as to how administrative agencies should function, what is there to prevent them from issuing directions as to how the State Government or Central Government should administer the State and run the Country? In our opinion such an approach would not only disturb the delicate balance of powers between the three wings of the State, it would also strike at the very basis of our democratic polity which postulates that the governance of the Country should be carried on by the executive enjoying the confidence of the legislature which is answerable and accountable to the people at the time of elections. Such an approach would in our opinion result in judicial oligarchy dethroning democratic supremacy.

(55) 45. In our opinion the Court should not assume such awesome responsibility even on a limited scale. The Country can ill afford to be governed through Court decrees. Any such attempt will not only be grossly undemocratic, it would be most hazardous as the Courts do not have the expertise or resources in this connection. The judiciary is not in a position to provide solutions to each and every problem, although human ingenuity would not be lacking to give it some kind of shape or semblance of a legal or constitutional right, eg., by resorting to Article 21."



be aligned with Kovilpatti Taluk in Thoothukudi District or in Thiruvengadam Taluk, Tirunelveli District, falls within the executive domain of the Government. The petitioner in the affidavit filed in support of the petition admittedly did not allege the malafide or want of jurisdiction on the part of the concerned authority to take a decision to realign the Taluks as stated above.

13. This Court also lacks technical knowledge and experience to find out whether the alignment or realignment has been done properly or not. As rightly pointed out in the Judgment in **Common Cause (A Registered Society Vs. Union of India and others** reported in **2008 (4) Scale SCC 848**, wherein it is observed that "the view that the judiciary can run the Government and can solve all the problems of the people is not only unconstitutional, but also it is fallacious and creates a false impression and false illusion that the judiciary is a panacea for all ills in society. Such illusions, in fact, do great harm to the people because it makes the people believe that their problems can be solved by others and not by the people themselves. It deliberates their will and makes them believe that they can solve their problems and improve their conditions not by their own struggles and creativity but by filing a public interest litigation in Court".

14. In the light of the same, coupled with the fact that G.O.Ms.No.98, Rural Development and Panchayat Raj Department, dated 01.09.2017 came to be passed subsequently, this Court is not in a position to grant any relief to the petitioner herein. Therefore, this Writ Petition is dismissed. However, in the circumstances of the case, there shall be no order as to costs.

Sd/-

Assistant Registrar(CO)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Revenue Department,
Tamil Nadu Government,
Chennai.
2. The District Collector,
Thoothukudi District,
Thoothukudi.
3. The District Revenue Officer,
Thoothukudi District,
Thoothukudi.



4. The District Collector,
Tirunelveli District,
Tirunelveli.

5. The District Revenue Officer,
Tirunelveli District,
Tirunelveli.

+ 1 cc TO M/S.F.X.Eugene , Advocate in SR No. 40604
+ 1 cc TO The Special Government Pleader in SR No. 40793

ps

AE/KK/SAR2/24.01.2018/11P/8C

W.P(MD)No.14191 of 2016
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