



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2018

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P. (MD) No.20390 of 2018

and

W.M.P. (MD) .No.18152 of 2018

B.Sadasivam

... Petitioner

Vs.

1. The Commissioner of Police,
Alagarkoil Road, Madurai.
2. The Assistant Commissioner of Police, (Traffic)
Madurai Town, Madurai.
3. The Inspector of Police,
Traffic South-II, Madurai.
4. The Executive Engineer,
(Construction and Maintenance)
State Highways Department,
Madurai-2.

... Respondents

PRAYER:- Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus, to direct the respondents to keep the existing opening of 21 feet in the central median wall in the TPK road opposite to the petitioners petrol retail outlet situated in 37, TPK Road, Pasumalai, Madurai.

For Petitioner : Mr.P.Pandi

For Respondents : Mr.B.Bhagawathi

Government Advocate (criminal side)

ORDER

This Writ Petition has been filed seeking for a Writ of Mandamus, directing the respondents to keep the existing opening of 21 feet in the central median wall in the TPK road opposite to the petitioner's petrol retail outlet.

2. The learned counsel for the petitioner would submit that the petitioner's petrol retail outlet is situated in between pykara and Alagusundaram Nagar Junction. The fourth respondent police started constructing a central median wall and while keeping an opening in many places in order to ensure easy access to the general public, the fourth respondent closed the entire



central median wall and thereby denied access to the customers to reach the petrol bunk belonging to the petitioner from the other side of the road.

3. The learned counsel for the petitioner submitted that the fourth respondent has clearly discriminated the petitioner and therefore the petitioner has approached this Court to direct the respondent to keep an opening of 21 feet in order to enable the customers to reach the petrol outlet belonging to the petitioner. He would further submit that the third respondent has filed written objection before this Court today. It will be relevant to extract the following paragraphs from written objections.

"....4. I humbly submit that in the said road various accident were happened in the past days and the accident particulars in the said road are as follows:-

Year	304 (A) IPC	279, 337 IPC	279 IPC	Total No. of person died in the accident	Total No. of persons injured in the accident
2016	7	31		7	31
2017	8	25	1	8	25
2018 (upto 24.09. 2018	4	17		4	20
Total	19	73	1	19	76

5. I humbly submit that the above said road there is number of temples available namely, Sai Baba Temple, Thiruparankundram Murugan Temple and number of vehicles and publics moved through out the day in that road. More over the said road is the way to Tirunelveli, Courtlam and other out station areas. Hence, through out 24 hours of the day much traffic and vehicles moved in that road.

6. I humbly submit that the petitioner's petrol retail outlet located slight Opposite to the Gateway Hotel and there is open opposite to the Gateway hotel and nearly about 25 meters distance only available to the petitioner's petrol retail outlet, the general public can use the open area available opposite to the Gateway hotel and another open is also available near Muthuramalingapuram and with the distance of 50 meters from the



petitioner's petrol retail outlet, the said two openings can used by the general public and vehicle to cross the road..."

4. The manner in which the high ways will have to be maintained and the manner in which the central median wall will have to be constructed and the manner in which opening will have to be allowed, is exclusively within the domain of the concerned authority. If the concerned authority thinks it fit that an opening should not be made in a particular junction, taking into consideration a lot of factors, the same cannot be interfered by this Court. It can be seen from the paragraph extracted above that the respondents have justified putting up the central median wall without any opening as requested by the petitioner. This Court in exercise of its jurisdiction and under Article 226 of Constitution of India cannot go into the merits or otherwise and the decision taken by the respondents. These are all decisions which will be best left to the authorities to decide and this Court should not sit in an appeal over such decision.

5. In view of the above, this Court finds no merits in this petition, this Writ Petition is dismissed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar (CS-I)

To

1. The Commissioner of Police,
Alagarkoil Road, Madurai.
2. The Assistant Commissioner of Police, (Traffic)
Madurai Town, Madurai.
3. The Inspector of Police,
Traffic South-II, Madurai.
4. The Executive Engineer, (Construction and Maintenance)
State Highways Department,
Madurai-2.

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 88860

+ 1 CC TO Mr.P.PANDI, ADVOCATE IN SR No. 89297

SJI

TE/SV/SAR-1 : 02/11/2018 : 3P/7C