



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.01.2018

CORAM:

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

**W.P(MD)No.10450 of 2011
and
M.P(MD)No.2 of 2011**

Noble Dhas Mohan

... Petitioner

Vs.

1. The Chief Secretary to Government of Tamil Nadu,
Fort. St. George,
Chennai.
2. The Principal Secretary,
Municipal Administration and Welfare Supply Department,
Fort St. George,
Chennai.
3. The District Collector,
Kanyakumari District,
Nagercoil.
4. Kariyamanickapuram Panchayat,
Rep. by the President cum Executive Officer,
Kanyakumari District.
5. The Commissioner,
Nagercoil Municipality,
Kanyakumari District.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned G.O.Ms.No.17, Municipal Administration and Water Supply (Election Department), dated 14.01.2011 passed by the second respondent, which was published in Tamil Nadu Government Gazette, dated 14.01.2011 and quash the same and consequently direct the respondents 1 to 3 to relive Kariyamanickapuram Panchayat from the above said impugned G.O.Ms.No.17, Municipal Administration and Water Supply (Election Department).



For Petitioner : Mr.K.P.Narayana Kumar
For RR 1 to 3 : Mr.C.M.Mari Chelliah Prbhu,
Special Government Pleader.
For R - 4 : Mr.J.Viswanathan
For R - 5 : Mr.K.Mahendran

ORDER

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

The petitioner is a resident of Kariamanickapuram Village Panchayat, Iddalakudi (Post), Kanyakumari District and according to him, most of the residents of the said Village are eking out their livelihood by doing agricultural activities and he came across an information that the Government of Tamil Nadu in G.O.Ms.No.277, Municipal Administration and Water Supply Department, dated 09.11.2010, in and by which, has indicated that certain areas have to be included within the jurisdiction limit of Nagercoil Municipality under the provisions of the Tamil Nadu District Municipality Act, which include the petitioner's Village also.

2.The Grama Sabha, on became aware of the said decision, also passed a resolution, dated 26.01.2011, requesting the concerned authority not to amalgamate for including their Village within the jurisdiction limit of Nagercoil Municipality and very many such representations earlier have also been sent to the concerned officials. The grievance expressed by the petitioner is that despite very many such representations submitted, the second respondent has ignored the sentiments of the residents of the said Village and passed G.O.Ms.No.17, Municipal Administration and Water Supply (Election), dated 14.01.2011, including the said Village within the jurisdiction limit of Nagercoil Municipality and hence came forward to file this Writ Petition.

3.The Writ Petition was entertained on 14.09.2011.

4.The fifth respondent has filed the counter affidavit stating among other things that as per G.O.Ms.No.131, dated 16.03.2007, a decision has been taken to upgrade 8 Municipalities and 5 Corporations by expanding the area and necessary instructions were also given to all the Municipal Commissioners to examine the possibility of including the nearby areas with the existing local body on the basis of a) density of the population b) income per person and c) percentage of major agricultural activities. Accordingly, a proposal was emanated and thorough ~~consideration~~ has been made with the elected representatives and concrete decision has been taken to include Kariyamanikkapuram



Village Panchayat within the jurisdiction limit of Nagercoil Municipality. It is further stated in the counter affidavit that after merger, it has become new Municipal Ward No.12 and local body election was conducted and Mr.V.Sri Manikandan was elected as Municipal Councillor/representative of the local body and hence prays for dismissal of the Writ Petition.

5.Mr.K.P.Narayana Kumar, learned counsel appearing for the petitioner would submit that the impugned G.O came to be passed without taking into consideration the sentiments expressed by the residents of the local body and on account of the merger, the required funds being allotted by the Central Government and the same would not come to their aid and no proper attention would also be given to address the grievance of the residents of the said Panchayat and would further add that a fair and reasonable opportunity has also been denied to them and hence prays for interference.

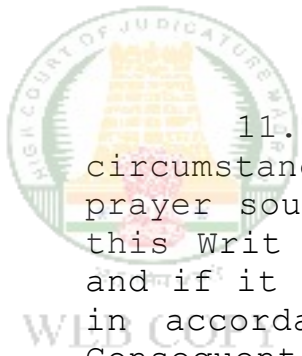
6.The learned counsel appearing for the petitioner in support of his submission has placed reliance upon the decision of this Court in ***Grama Sabha of Kaverirajapuram Panchayat Village and others Vs. The State of Tamil Nadu and others*** reported in **1996 MLJ 596**.

7.This Court has heard the submissions of Mr.K.Mahendran, learned counsel appearing for the fifth respondent, who would submit that the merger has been done strictly in accordance with the norms and before doing so, proper and effective conclusion was made with the local representatives and other state holders and would further add that the inclusion/non-inclusion of the area, the decision to include the particular area within the limit of a Municipal Corporation, may not be lightly interfered with as it is a policy decision and hence prayed for dismissal of the Writ Petition.

8.This Court has considered the rival submissions made on either side and perused the materials available on record.

9.The decision to merge or demerge a particular area, in the considered opinion of this Court, may not lightly be interfered with for the reason that it is a policy decision taken in accordance with relevant statute. It is a well-settled position of law that a policy decision cannot be lightly interfered with unless it bristles with arbitrariness or tainted with oblique motive. It is also brought to the knowledge of this Court that after merger, local body election was also held and it has become Ward No.12 and it was represented by Ward Councillor also.

10.At this juncture, the learned counsel appearing for the petitioner seeks the leave of this Court to work out his remedy administratively before the concerned statutory forum.



11. This Court, in the light of the above facts and circumstances and reasons assigned above, is of the view that the prayer sought for by the petitioner cannot be granted. Therefore, this Writ Petition is dismissed. If the petitioner is so advised and if it is open to him under law, he may avail the proper remedy in accordance with law before the competent forum. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Chief Secretary to Government of Tamil Nadu,
Fort. St. George,
Chennai.
2. The Principal Secretary,
Municipal Administration and Welfare Supply Department,
Fort St. George,
Chennai.
3. The District Collector,
Kanyakumari District,
Nagercoil.

+1cc to the Spl. Government Pleader Sr.No.45536

+1cc to Mr.K.Mahendran, Advocate Sr.No.45387

+1cc to Mr.K.P.Narayana Kumar, Advocate Sr.N.45678

PS/VSG

VB/KKR/SAR4/19.02.2018/4P/7C

ORDER MADE IN
W.P (MD) No.10450 of 2011
and
M.P. (MD) No.2 of 2011
31.01.2018