

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.08.2019

CORAM

THE HON'BLE MR.JUSTICE M.DHANDAPANI

W.P.No.12147 of 2011

and

WMP.Nos.1 and 2 of 2011

P.Ravi

..Petitioner

vs

1.The Executive Officer,  
Town Panchayat,  
Denkanikottai.

2.The General Manager,  
Tamilnadu State Transport Corporation,  
Salem zone-II, Dharmapuri.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondent to issue the No Due Certificate to the petitioner on the basis of the representation dated 18.04.2011.

For Petitioner : Mr.T.Arokia Dass

For Respondents : Ms.K.Bhuvaneshwari

Additional Government Pleader for R1

Ms.A.K.Gandhi for R2

सत्यमेव जयते  
O R D E R

The petitioner has filed the present Writ Petition for issuance of a Writ of Mandamus, directing the respondent to issue the No Due Certificate to the petitioner on the basis of the representation dated 18.04.2011.

2. According to the petitioner, he is a resident at Jai Street, Thenkanikotta, now migrated to Chennai. He participated in tender in the years 2004 and 2005 conducted by the respondent's Town Panchayat dated 18.02.2004. In the said tender, he emerged as a successful bidder for

collecting entrance charges to the bus and other vehicles for the value of Rs.2,30,700/-. Thereafter, he was assigned to collect the charges as per the norms stipulated by the first respondent. Then, the first respondent issued a notification to the petitioner regarding auction purchase and the petitioner paid auction amount to the tune of Rs.1,00,000/- in various dates. Subsequently, the auction period has also come to an end on 31.03.2005. Thereafter, there was no due on the part of petitioner to the respondent Panchayat.

3. After a lapse of one year, the petitioner gave nomination on 26.09.2006, to the first respondent Panchayat, for the post of Member of Ward No. 12, Denkanikottai Town Panchayat in a prescribed form as prescribed by the election authority and thereafter they simply rejected the petitioner's nomination. After one year, the petitioner wrote a letter to the first respondent through his advocate, dated 18.07.2007, to know the reason for rejection of the nomination. The respondent replied by his communication dated 30.07.2007. After a long time, the petitioner made a detailed representation, as a result of which, the first respondent has sent a communication dated 17.06.2009, calling upon the petitioner to pay the arrears of charges that are ought to be paid to the first respondent to the tune of Rs.5,18,812/- in respect of the period from 1997 to 2005, which includes his auction period. Accordingly, the first respondent accepted and agreed to collect the charges from the second respondent by himself. But, at the same time, he demanded and threatened the petitioner as he have arrear against the first respondent which is against the provision of Law contemplated under the Tamil Nadu Town Panchayat Act 1920. Against the same, the present writ petition is filed.

4. The learned counsel appearing for the petitioner submitted that the petitioner had planned to seek housing loan from the scheduled Bank for which he was asked to produce No Due Certificate from the local authority. In this regard, he gave representation dated 18.04.2011, to the first respondent to issue no due certificate, but the respondent has not issued any certificate. The specific contention of the learned counsel appearing for the petitioner is that no due certificate is necessary to the petitioner and therefore, this Court shall issue a direction to the first respondent to issue the same to the petitioner, within a stipulated period of time.

5.The learned counsel appearing on behalf of the first respondent submitted that the first respondent had not acted against the law or violated any provision of law under his official capacity. He further submitted that the first respondent has taken efforts for collection of due amount either from the petitioner or from the second respondent. He further submitted that if the petitioner or the second respondent had paid the entire balance amount, the first respondent would have readily issued the 'No Due Certificate' to the petitioner.

6.On a perusal of the record it is seen that there was due by the petitioner. The first respondent sent a communication dated 17.06.2009 calling upon the petitioner to pay arrears to the first respondent to the tune of Rs.5,18,812/-. When the due is pending with the first respondent, the petitioner filed the present writ petition to issue no due certificate does not arise unless the petitioner produce the valuable records with regard to the payment of arrears of the amount or that arrears demanded by the first respondent was set aside in the manner known to law. In the absence of any material, this Court cannot issue any direction. Further, after a lapse of 9 years, the prayer sought for in this writ petition cannot be granted. Accordingly this writ petition is dismissed. Consequently the connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

tta

To.

1.The Executive Officer,  
Town Panchayat,Denkanikottai.

2.The General Manager,  
Tamilnadu State Transport Corporation,  
Salem zone-II, Dharmapuri.

+1cc to Mr.R.K.Gandhi , Advocate SR.No. 67944

+1cc to M/s.K.Bhuvaneswari , Advocate SR.No. 67480

W.P.No.12147 of 2011

A.SK(18/09/2019)