

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.01.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.2002 of 2019
and
W.M.P.Nos.2263 and 2266 of 2019

Jothi Ramalingam

.. Petitioner

Vs.

- 1.The General Manager,
Southern Railway, Park Town,
Chennai- 600 003.
- 2.The Divisional Railway Manager,
Southern Railway,
Thiruchirapalli.
- 3.The District Collector,
Collectorate,
Thanjavur District at Thanjavur.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to forthwith consider conversion of the unmanned gate to that of a manned Gate or Road Over Bridge at Muthupet to Adhiramapattinam - LC 64/km 88/900-89/0, by revising the proposal for construction of Road Under Bridge for easy heavy vehicular movements to and from, at Muthupet to Adhiramapattinam - LC 64/km 88/900-89/0.

For Petitioner : Mr.L.Chandrakumar

For R1 and R2 : Mr.P.T.Ramkumar
Standing counsel for Railways.

For R3 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader.

ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

On 28.01.2019, we passed the following order:-

"Petitioner has sought for a writ of mandamus, to direct the respondents, to consider, conversion of the unmanned gate to that of a manned gate or road over bridge, at Muthupet to Adhiramapattinam - LC 64/km 88/900-89/0, by revising the proposal, for construction of road under bridge for easy heavy vehicular movements to and fro, at Muthupet to Adhiramapattinam - LC 64/km 88/900-89/0.

2. On instructions, Mr.P.T.Ramkumar, learned Standing Counsel for the Railways/respondents 1 and 2 submitted that the proposed construction of subway is at unmanned gate, at level crossing No.64/km No.68. He further submitted that within a distance of 500 metres, there is a manned level crossing and therefore, public of Maravakkadu village can use the manned level crossing.

3. He also drew the attention of this Court, to an earlier order of this Court, made in W.P.No.21631 of 2018, dated 24/8/2018, where this Court has held that the petitioner therein has no constitutional or legal right, to seek for a disposal of the representation and further, held that it is the exclusive domain of the railways.

4. Respondents are directed to file a detailed statement, explaining the above with material.

5. Post on 30/1/2019."

2. Today on further instructions, Mr.P.T.Ramkumar, learned Standing counsel for Railways, submitted that there is no proposal for construction of sub-way, but it is only a conversion of unmanned level crossing into manned level crossing.

3. He further submitted that the representation of the writ petitioner, has been considered and accordingly informed on behalf of the Senior Divisional Railway Manager.

4. Supporting materials for the abovesaid submission, are as hereunder:-

"Southern Railway

No.T/W.287/LC/2018

Divisional Office,
Works Branch
Tiruchirappalli,
Dt: 06.06.2018.

Sub: Elimination of LCs - joint inspection report
of inspection conducted on 23.5.2018 between TTP-PKT

In connection of LCs in proposed gauge conversion work between TTP-PKT a joint inspection was conducted by the undersigned on 23.5.2018 and the actual need at site at LC locations are studied in depth and categorised as follows.

1. Total number of LCs existed during MG system = 36
2. On date position of total number of LCs feasible for manning = 26
3. Total number of LCs feasible for subways = 7
(LC Nos - 49,52,55,66,67,69,71)
4. Total number of LCs feasible for diversion = Nil
5. Total number of LCs for outright closure = 1
(LC No.61)
6. LC for elevated road and bridge (ERR) = 1 (LC No.73)
7. Total number of LCs outrightly closed = 1
(LC.No.89)

It is requested to make necessary arrangements for manning of LCs, construction of subways, parallel road and ERR at the earliest please. For subway work Collector/Thanjavur and Tiruvarur will be approached and requested you to move with Collector for obtaining their early consent.

Dy.CE/GC/III/TPJ
DEN/East/TPJ"

"Southern Railway

No.T/W.287/LC/2018

Divisional Office,
Works Branch,
Tiruchchirappalli,
Date. 22.01.2019.

CBE/MAS

Sub: Representation from Smt. Jothi Ramalingam,
Thambikottai Melakadu, Pattukottai, Thanjavur to Stop
the construction of subway work at LC No.64 at km
85/800-900 in TTP - PKT section - reg.

Ref: CBE / MAS letter no.W.359/2/BEO/MR/LUS/Vol.VI
dated. 08.01.2018.

With reference to the above, it is advised that
there is no proposal available with CN organization for
construction of subway in lieu of this LC No.64 in TTP
- PKT section. The LC will be manned.

For kind information.

(K.RajaRajan)
Sr.DEN/Co-ord./TPJ
for Divisional Railway Manager"

5. Placing on record the above submission, no further orders
are required in the instant writ petition. Accordingly writ
petition is disposed of. No Costs. Consequently, the connected
writ miscellaneous petitions are closed.

dm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The General Manager,
Southern Railway, Park Town,
Chennai- 600 003.

2. The Divisional Railway Manager,
Southern Railway,
Thiruchirapalli.
3. The District Collector,
Collectorate,
Thanjavur District at Thanjavur.

+1cc to Mr.P.T.Ram Kumar, Advocate, S.R.No.7788
+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.7697
+1cc to the Government Pleader, S.R.No.8792

W.P.No.2002 of 2019
and
W.M.P.Nos.2263 and 2266 of 2019

mg(CO)
kak(11/03/2019)