

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.08.2019

CORAM:

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

W.P.No.4128 of 2018

M.R.Saravanan @ Cine Saravanan ... Petitioner

Vs

1. Local Administration & Municipal Administration,
Rep. by its Secretary,
Fort St. George,
Chennai - 600 009.

2. The Commissioner,
Chennai Corporation,
Ripon Building,
Chennai - 600 003.

3. The Commissioner,
Alandur Municipality,
Alandur, Chennai - 600 016.

4. M/s.Green Peace Pvt. Ltd.,
Rep. by its Managing Director,
Mr.D.I.Paul @ Ernest Paul. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, directing the 2nd respondent Corporation to establish Anganvadi @ Noon Meal Centre in the same place i.e. No.5, Noble Street, Alandur, for the benefit of poor / school going children in the locality.

For Petitioner : Mr.G.Thyagarajan

For Respondents : Mr.E.Manoharan (for R1)
Additional Government Pleader.

Mr.V.C.Selvasekaran (for R2 & R3)
Standing counsel for Chennai Corpn.
Mr.Muthuraman (for R4)

O R D E R

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

Claiming to be a public interest litigant, petitioner has filed the instant Public Interest Writ Petition, for a mandamus, directing the respondent Corporation to establish Angavadi @ Noon Meal Centre in the same place i.e., No.5, Noble Street, Alandur, for the benefit of poor / school going children in the locality.

2. Supporting the prayer sought for, petitioner has averred as follows:

(i) In the year 1982, during the regime of the then Hon'ble Chief Minister of Tamil Nadu, Dr.M.G.Ramachandran, a Noon Meal Center @ Anganwadi Centre, was established in a Government Corporation School situated at Ward No.162, Nobel Street, Alandur, Chennai. The said Noon Meal Centre was established in the Government land and thousands of students, mostly students from the downtrodden community were getting food and support from the Government through this Anganwadi Center in line and spirit of Constitution of India.

(ii) On 28.12.2012, a resolution was passed by Corporation Chennai vide No.552/2012, wherein it was stated that since the said Anganwadi Building is located in the corner of the road and in the dilapidated condition, the same need to be demolished and then the road would be widened for foot path to be used by public. Further, it is also stated in the said resolution that an alternate building is provided for the purpose of Anganwadi, whereas the same has not been executed by the Respondent Corporation till date.

(iii) As per the resolution of the Corporation Chennai, the said Anganwadi Building was demolished and removed, but neither widening of road nor any development of foot path was done, nor any alternate building is given for the purpose of Anganwadi, as stated in the resolution. Instead, the said place is being assigned to a third party for the purpose of entrance into a multi-storey building consisting of 96 houses, which is a private company operating in the name and style of M/s.Green Peace Pvt. Ltd., owned by one Mr.Ernest Paul of Ashok Nagar, Chennai. As of date, a shed is raised in the said place.

iv) This act of the respondent authorities is an absolute violation of the resolution passed by them and it is against the interest of poor children, who were supported by the Noon Meal Scheme by the Government of Tamil Nadu, which was initiated in the good spirit of Dr.M.G.Ramachandran, the then Chief Minister of Tamil Nadu.

v) Several meetings were conducted by different NGO's condemning the act of the respondent authorities and to cease the unlawful action of the respondent authorities intended to assign the place of Anganwadi Centre to a third party who is not carrying out any government service or any service to the poor people in the society. The same was also debated in many of the Channels and media.

vi) In the said resolution passed by the Corporation, Chennai dated 28.11.2012, the reason mentioned for demolition of the Anganwadi Center is only to widen the road for developing foot path for public purpose. But the purpose of demolishing the said Anganwadi Center is not satisfied. Hence, there is a clandestine adjustment between the government servants and highest officials to defeat the interest of the then Hon'ble Chief Minister of Tamil Nadu and also to make the poor students devoid of their midday meals in the said Anganwadi, who belong to the downtrodden community in the society.

vii) Violation of the resolution by the respondent Corporation authorities and on the contrary, handing over the property to the third party i.e. M/s.Green Peace Pvt. Ltd., is an absolute violation of the Constitution of India and violation of interest of Government of Tamil Nadu.

viii) Though petitioner has sent many oral and written communications, representations and complaints to all the highest authorities in Tamil Nadu, they remain incommunicado and there is neither any reply nor any action. This act of the respondent authorities in handing over the property of Noon Meal Centre to a Real Estate Developer, for the motive other than that stated in its resolution dated 28.11.2012 clearly portrays the malafide intention of the Respondent authorities in collusion with other higher politically influenced Government officials. Therefore, the petitioner has filed the instant writ petition, for the relief stated supra.

3. On notice, the Assistant Commissioner, Zone-12, Corporation of Chennai, 3rd respondent, has filed counter affidavit, which reads thus:

(i) Alandur Municipality was merged with Greater Chennai Corporation vide G.O.Ms.No.97 MA&WS Department dated 19.07.2011. Thereafter, the administration of Alandur Municipality has been taken over by the greater Chennai Corporation on 30.10.2011.

(ii) Nobel Street is 40 feet wide street and the erstwhile Alandur Municipality had constructed an Anganwadi @ Nutrition Noon Meal Center in the year 1982 in the said Street to an extent of 15 feet admeasuring 400 sq.ft. under the control of Child Development Project Officer, Alandur Project.

(iii) After merging, the Greater Chennai Corporation, has taken over the said Anganwadi @ Nutrition Noon Meal Center and

found that the said Anganwadi @ Nutrition Noon Meal Center building is in dilapidated condition and also there is another Anganwadi @ Nutrition Noon Meal Center is being operated at Kannan Colony which is within 200 meters radius of old Anganwadi @ Nutrition Noon Meal Center.

(iv) Since the said Anganwadi @ Nutrition Noon Meal Center at Nobel Street is in a dilapidated condition and the said Anganwadi @ Nutrition Noon Meal Center is not functioning, orders have been obtained to demolish the said Anganwadi @ Nutrition Noon Meal Center at Nobel Street by placing before the Council, Greater Chennai Corporation. Further, Council, Greater Chennai Corporation has granted permission to demolish the said Anganwadi @ Nutrition Noon Meal Center vide Resolution No.78/2012 dated 18.12.2012.

(v) The Project Officer, Child Development Project Officer, Alandur Project has addressed a letter dated 22.05.2012 stating that the Anganwadi @ Nutrition Noon Meal Center No.35 at Nobel Street has been merged with the Anganwadi @ Nutrition Noon Meal Center No.32. Further after getting approval of the Council, Greater Chennai Corporation the said Anganwadi @ Nutrition Noon Meal Center has been demolished. General public at Nobel street has given a representation requesting to construct an indoor stadium in the Noble Street, for betterment of the youngsters. Accordingly, the Greater Chennai Corporation has constructed an indoor game, small shed in the place where the Anganwadi @ Nutrition Noon Meal Center existed.

(vi) On verification of the revenue records, it is ascertained that the width of the street is 12.2 meters and out of the 12.2 meters only a width of about 5.5 meters alone is being utilized as a street for the past several decades. Out of the remaining width of the road a Storm Water Drain has been laid for the entire stretch. In order to prevent encroachment by third parties including the fourth respondent herein, the Greater Chennai Corporation has constructed the indoor stadium in the said street only to an extent of 5.5 meters.

(vii) Aggrieved by the same, the fourth respondent herein has filed W.P.No.8795 of 2015 seeking for a Writ of Mandamus, to remove the obstructions or unauthorised structure being constructed on the road namely the Noble Street at Palavanthangal abutting the petitioner's property bearing Town Survey Field No.294 comprised in Survey Number 47/1 A situated at No.124, Palavanthangal Village, Saidapet, Chennai thereby keeping the road to its original width of 40 Feet. In the abovesaid case this Court has passed an order dated 22.01.2018, as follows:

"...5. In the light of the above submissions and the prayer sought for in the writ petition, this Court without going into the merits, directs the respondents

2 and 3 to take appropriate action on the basis of the representation made by the petitioner on 19.03.2015 and pass orders, after providing an opportunity to the authorized representative of the petitioner, within a period of three months from the date of receipt of a copy of this order.

6. With the above observation, this Writ Petition is disposed of. No costs..."

4. Reiterating the above, Mr.V.C.Selvaraghavan, learned standing counsel for Chennai Corporation, prayed for dismissal of the writ petition.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. At paragraph No.6 of the counter affidavit, the third respondent viz., Assistant Commissioner, Zone-12, Corporation of Chennai, has submitted that after merging, the Greater Chennai Corporation has taken over the said Anganwadi @ Nutrition Noon Meal Center and found that the said Anganwadi @ Nutrition Noon Meal Center building is in dilapidated condition and also there is another Anganwadi @ Nutrition Noon Meal Center, is being operated at Kannan Colony, which is within 200 meters radius of old Anganwadi @ Nutrition Noon Meal Center.

7. Reasons stated in the counter affidavit are accepted and the instant writ petition is dismissed. No Costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Secretary,
Local Administration & Municipal Administration,
Fort St. George,
Chennai - 600 009.

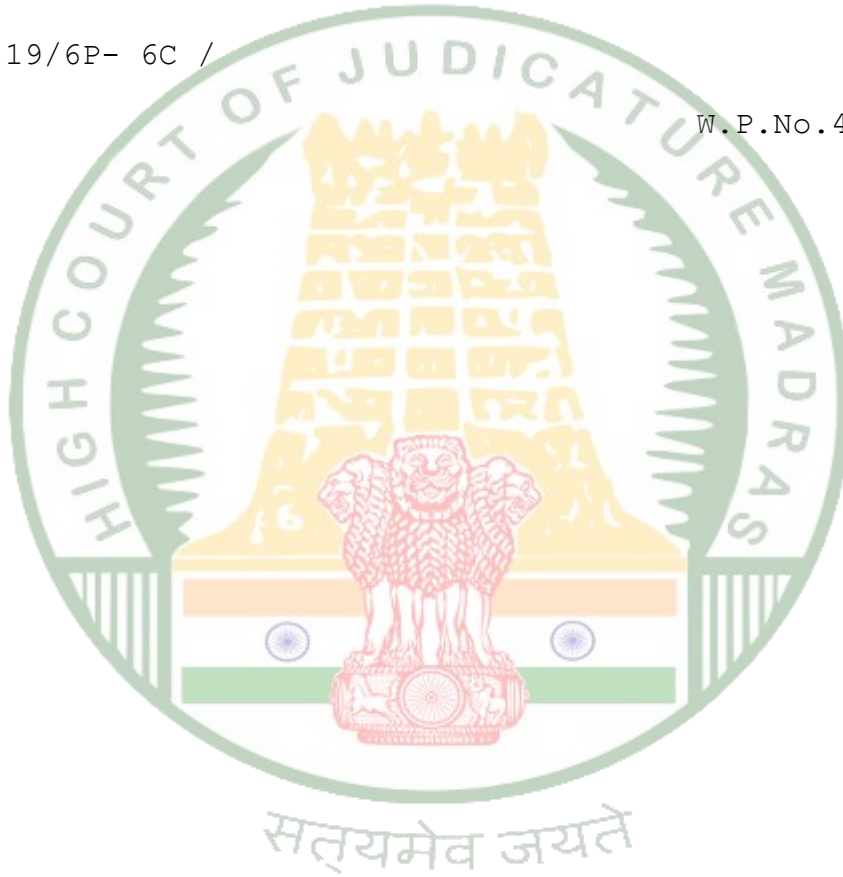
2. The Commissioner,
Chennai Corporation,
Ripon Building,
Chennai - 600 003.

3. The Commissioner,
Alandur Municipality,
Alandur, Chennai - 600 016.

+1 cc to M/s.G.Thyagarajan, Advocate Sr.No. 76589
+1 cc to The Government Pleader Sr.No.76246

AKM/26.09.19/6P- 6C /

W.P.No.4128 of 2018



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