

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 7/2/2019

C O R A M

THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR.JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.3665 of 2019

Silambarasan

... Petitioner

Vs

1. The Chairman
Airport Authority of India
New Delhi 110 001.
2. The Director
Directorate General of Civil Aviation
Government of India
New Delhi 110 003.
3. The Chief Secretary
Government of India
New Delhi 110 001.
4. The Chief Secretary
Government of Tamil Nadu
Fort St. George
Chennai 600 009.
5. The Secretary/General Manager
(Administrative)
Airport Authority of India
Rajiv Gandhi Bhawan
Safdarjung Airport
New Delhi 110 003.

... Respondents

Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of mandamus to direct the respondents to consider and dispose the petitioner's representation dated 6/7/2018 to function Air service and to provide Airport both domestic and international in Hosur, Krishnagiri District.

For petitioner ... Mr.K.Sathyaraj

For respondents ... Mr.K.Gunasekar
SPCCG
for R.R.2 and 3

Mr.E.Manoharan
Additional Government Pleader
for R.4

O R D E R

(Order of the Court was made by Subramonium Prasad,J)

Petitioner seeks for a direction, to provide domestic and international Airport in Hosur, Krishnagiri District. At the outset, we find that this petition is a complete waste of judicial time. A writ petition is filed only to enforce a right. The petitioner has not pointed out what right is he seeking to enforce. It is for the Government to take a decision and to the place where an Airport, to be established. The writ Court cannot pass a mandamus, directing the State to open an Airport at a particular place.

2. The Hon'ble Supreme Court in Narmada Bachao Andolan Vs. Union of India and Others, reported in {2000 (10) SCC - 664}, the Hon'ble Supreme Court observed as follows:-

"232. While protecting the rights of the people from being violated in any manner utmost care has to be taken that the Court does not transgress its jurisdiction. There is, in our constitutional framework a fairly clear demarcation of powers. The Court has come down heavily whenever the executive has sought to impinge upon the Court's jurisdiction.

233. At the same time, in exercise of its enormous power, the Court should not be called upon to or undertake governmental duties or functions. The Courts cannot run the Government nor can the administration indulge in abuse or non-use of power and get away with it. The essence of judicial review is a constitutional fundamental. The role of the higher judiciary under values of the Constitution and the rights of Indians. The Courts must therefore, act within their judicially permissible limitations to uphold

the rule of law and harness their power in public interest. It is precisely for this reason that it has been consistently held by this Court that in matters of policy the Court will not interfere. When there is a valid law requiring the Government to act in a particular manner the Court ought not to, without striking down the law, give any direction which is not in accordance with law. In other words, the Court itself is not above the law.

234. In respect of public projects and policies which are initiated by the Government the Courts should not become an approval authority. Normally such decisions are taken by the Government after due care and consideration. In a democracy welfare of the people at large, and not merely of a small section of the society, has to be the concern of a responsible Government. If a considered policy decision has been taken, which is not in conflict with any law or is not mala fide, it will not be in public interest to require the Court to go into and investigate those areas which are the function of the executive. For any project which is approved after due deliberation, the Court should not refrain from being asked to review the decision just because a petitioner in filing a PIL alleges that such a decision should not have been taken because an opposite view against the undertaking of the project, which view may have been considered by the Government is possible. When two or more options or views are possible and after considering them the Government takes a policy decision it is then not the function of the Court to go into the matter afresh and, in a way, sit in appeal over such a policy decision."

3. The present writ petition cannot be said to be in public interest. In fact, the Hon'ble Supreme Court, has held that by filing vexatious and frivolous petitions, the queue standing outside the doors of the Court never moves which piquant situation creates a frustration in the minds of the genuine litigants and resultantly, the lose faith in the administration of judicial system.

4. The instant writ petition cannot be entertained and accordingly, the same is dismissed, with costs of Rs.10,000/-

(Rupees Ten thousand only), to be paid to the Tamil Nadu Juvenile Justice Fund, Ministry of Social Defence, Kellys, Chennai, within a period of ten days, from the date of receipt of a copy of this order. Failing which, the concerned District Collector, is permitted to take proceeding against the Revenue Recovery Act. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

mvs

To

1. The Chairman
Airport Authority of India, New Delhi 110 001.
2. The Director
Directorate General of Civil Aviation
Government of India, New Delhi 110 003.
3. The Chief Secretary,
Government of India, New Delhi 110 001.
4. The Chief Secretary
Government of Tamil Nadu
Fort St. George, Chennai 600 009.
5. The Secretary/General Manager (Administrative)
Airport Authority of India
Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi 110 003.
6. Tamil Nadu Juvenile Justice Fund,
Ministry of Social Defence, Kellys, Chennai.
7. The District Collector,
Krishnagiri.

+1 cc to The Government Pleader, Sr.No.11322
+1 cc to Mr.K.Gunasekar, Advocate Sr.No.11052
+1 cc to Mr.K.Sathyaraj, Advocate Sr.No.10855

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RV(CO)
CSL/08.03.2019