

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.04.2019

CORAM:

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

W.P.No.11710 of 2019

K.S.Palanisamy ... Petitioner

Vs.

1. The District Collector,
Erode District, Erode-11.
2. The Tahsildar (Revenue),
Tahsildar Office, Modakurichi,
Erode District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a writ of mandamus, directing the respondents herein to consider the Petitioner's representation dated 04.06.2018 and restore the functioning of the Government Veterinary Hospital from its original place at Ganapathipalayam, Erode, within time limit to be fixed by the Hon'ble Court.

For Petitioner : Mr.S.Gunalan

For Respondents: Mr.Akhil Akbarali (for R1 & R2)
Government Advocate.

सत्यमेव जयते
O R D E R

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

Claiming himself to be a resident of Kulathupalayam, Ganapathipalayam Post, Erode District, petitioner has filed the instant writ petition styled as a public interest litigation, for issuance of writ of mandamus, directing the respondents herein to consider his representation dated 04.06.2018 and to restore functioning of Government Veterinary Hospital from its original place at Ganapathipalayam Post, Erode District, within the time limit to be fixed by this Court.

2. Petitioner has contended that in Punjaikalamangalam Village, Modakurichi Taluk, there was a pond in Old S.F.No.660 (New R.S.No.100). S.No.100 has been sub divided as 100/1, 2 & 3. Government of Tamil Nadu has located the land in S.No.100/1, for construction of Government Veterinary Hospital. In the year 1986, construction was over and on 26.11.1986, the then Hon'ble Chief Minister inaugurated the hospital. From 1986 to 2017, village people availed the services of the veterinary hospital lying in the middle of the village. In 2017, District Collector, Erode District, Erode, passed an order to close the hospital in S.F.No.100/1, shifting the same to Ganapathypalayam on Erode to Karur Road, for the reason that the pond has to be desilted. Hospital has been shifted 3kms away from the village.

3. According to the petitioner, one Olirum Erode Foundation obtained permission to desilt the pond with their own financial resources. Permission was granted on 20.06.2017. Desilting was done and pond has been restored.

4. According to the petitioner, there is no hindrance for a veterinary hospital to function from its original place and therefore, petitioner and the villagers have given a representation dated 04.06.2018 to the District Collector, Erode District, to restore functioning of the Government Veterinary Hospital from its original place. Said representation has not been answered hence, the petitioner is constrained to file the instant writ petition.

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

6. Location / relocation of a hospital, is the exclusive domain of the Government. Petitioner cannot insist that an hospital constructed earlier should remain in the same place to suit the convenience of the villagers. Even according to the petitioner, presently, hospital is situated just 3kms away from the village. Desilting of pond, is for a different purpose, contention of the petitioner that the hospital has been shifted just for the purpose of desilting and the moment the work is over, hospital should be restored to the same place, cannot be accepted. Hospital located at the original place was closed, in the year 2017. Petitioner has no constitutional or statutory right to demand that his representation dated 04.06.2018 should be considered and that functioning of Government Veterinary Hospital should be restored to its original place at Ganapathipalayam Erode.

7. When learned counsel for the petitioner was confronted as to what is the right of the petitioner to demand for consideration of his representation dated 04.06.2018, he sought permission to withdraw his writ petition. Permission cannot be granted.

8. After considering a catena of decisions on Public Interest Litigations, this Court in WP No.3666 of 2019 between Kongu Nadu Saandror Kula Nadar Munnetra Sangam, rep. by its President Vs. State, rep. by the Chief Secretary, Fort St. George, Chennai and 3 others, dated 07.02.2019, has summarised the legal principles which emerge from the pronouncement of the Hon'ble Supreme Court and at this juncture, we deem it fit to reproduce the same.

4. Of late, we can notice a growing trend in the abuse of public interest litigation. Public Interest Litigation was intended to secure the justice for poor and the weaker section of the community, who were not in a position to protect their own interests.

5. The Hon'ble Supreme Court, has time and again, observed that there is, in recent years, a feeling which is not without any foundation that public interest litigation is now tending to become publicity interest litigation or private interest litigation and has a tendency to be counterproductive. PIL is not a pill or a panacea for all wrongs. It was essentially meant to protect basic human rights of the weak and the disadvantaged and was a procedure which was innovated where a public-spirited person files a petition in effect on behalf of such persons who on account of poverty, helplessness or economic and social disabilities could not approach the court for relief. {Refer BALCO EMPLOYEES' UNION (REGD) Vs. UNION OF INDIA AND OTHERS {2002 (2) SCC - 333}.

6. The present writ petition cannot be said to be in public interest. This petition seems to be purely motivated by a desire to seek publicity. 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 frustration in the minds of the genuine litigants and resultantly, they lose faith in the administration of judicial system.

7. A reading of instant writ petition would show that there is nothing in this petition which can be said in public interest. It does not advance any cause of the poor and down trodden. ..."

9. Petitioner has no locus to question where the hospital should be located. We are of the view that instant writ petition has to be dismissed with costs. Accordingly, instant writ petition is dismissed with costs, which we quantify at Rs.5,000/-[Rupees Five Thousand Only], to be paid by the petitioner to the account of Juvenile Justice Fund, Director of Social Defence, Ministry of Social Welfare, Government of Tamilnadu, Kellys, Kilpauk, Chennai-600 010, within a period of ten days from the date of receipt of a copy of this order, failing which, the District Collector, Erode District, is directed to take action for recovery, under the Tamil Nadu Revenue Recovery Act, 1864.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

To

1. The District Collector,
Erode District, Erode-11.
2. The Tahsildar (Revenue),
Tahsildar Office, Modakurichi, Erode District.
- 3.The Juvenile Justice Fund,
Director of Social Defence,
Ministry of Social Welfare,
Government of Tamilnadu,
Kellys, Kilpauk, Chennai-600 010.

+1 cc to Mr.s.Gunalan, Advocate, Sr.No. 41148 (24.06.2019)

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srg 29/04/2019