

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2019

CORAM

THE HONOURABLE Mr.JUSTICE S.MANIKUMAR
AND
THE HONOURABLE Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.18368 of 2019

G.Venkatesan

... Petitioner

Vs.

1.The District Collector
Kancheepuram

2.The Tahsildar
Tiruporur
Kancheepuram

3.The Executive Engineer
State Highways Department
Thirukazhukundram

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for a Writ of Mandamus in the nature of public interest litigation directing the respondents to consider the petitioner's representation dated 31.12.2018 requesting them to alter the plan of constructing of overbridge partly in S. No.4 (Poonghantal lake) and S. No.43, 44, 45, 56 (Thazhanthagal lake) rather than to construct the entire bridge on water stretch to enable to store the lake water during rainy seasons.

For Petitioner : Mrs.S.Deepika

For Respondents : Mr.Akhil Akbar Ali,
Government Advocate

ORDER

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

Instant writ petition has been filed for a writ of mandamus directing the respondents to consider petitioner's representation dated 31.12.2018 requesting the respondents to alter the plan of construction of overbridge partly in S. No.4 (Poonghantal lake) and S. Nos.43, 44, 45, 56 (Thazhanthagal lake) rather than to construct the entire bridge on water stretch to enable to store water during rainy seasons in the lake.

2. Short facts leading to the filing of the writ petition are that the Petitioner, Ex-President of Kelambakkam Panchayat, during his tenure has administered the village panchayat in a very well and planned manner. He has earned a good name for his better administration during the said period. He has utilised almost all the welfare schemes announced by the Government for the welfare of the Panchayat.

3. He has further stated that their village is situated at a distance of 4 Kms away from Covelong beach and few kilometers away from Buckingham Canal (salty canal) due to which the ground water of the village has become salty and hence the drinking water is supplied from adjacent village, namely Sathankuppam village through village panchayat.

4. It is the further contention of the petitioner that during rainy seasons, the water level of the lakes, ponds would raise and as a result of which, the ground water level also would raise and in such situations, the water is potable and utilised by their village people. At the same time, during summer season, the ground water level would drain to such an extent and the water fetched from lakes and ponds would be salty. Normally Poonthangal lake and Thazhanthangal lake are the main sources of water supply to their village. Inflow of rain water stagnates, accumulates during rainy season in the above said lakes and water is also potable for the village people, whereas during the summer seasons, the water level drains and become salty and non-potable.

5. In such circumstances, the respondents acquired lands in their village for making a 200 feet outer ring road for IT Highway in their village in S. Nos.4, 43, 44, 46, 47 and the work is progressing. Since the above said survey numbers are running through Thazhangal lake, the respondents have proposed to make the said outer ring road/over bridge in the above said lakes only in part and not throughout the entire stretch of the lakes, and now the said work is under construction for over bridge in the above said lakes. The sand and debris coming out of the construction work were thrown in the water catchment area of the lake and the same was levelled by the respondents, thus the construction of road inside the water catchment area is in process.

6. It is the further submission of the petitioner that the entire length of S. No.4 (Poonthangal lake) is 105 metres, out of which, over bridge constructed is only 50 metres length and the remaining 55 meters which is water catchment area of the lake has been levelled with sand and debris for road construction.

7. It is the further submission of the petitioner that the Hon'ble Apex Court and National Green Tribunal have delivered various judgments, giving guidelines to the States and the Central Government that water sources should not be disturbed or distracted in the name of development plan. However, the respondents violated the above said guidelines and encroached the above said two major water sources for construction of over bridge.

8. It is the further contention of the petitioner that already the ground water level is salty due to the proximity of Buckingham Canal and if the abovesaid construction of overbridge is allowed in the above water resources, the entire ground water level would become salty and non-potable for the entire year.

Also this is a serious indication of reduction of ground water level and in that case, their village people will be put to irreparable loss and untold hardship in future. If the construction is stalled, immediately the above said water sources would be saved.

9. It is the further submission of the petitioner that he has taken the above said issue with the authorities concerned several times. However, the same is unheard to the reasons best known to them. Finally, the petitioner has made a representation dated 31.12.2018. However, there was no response till date.

10. We have heard Mrs.S.Deepika, learned counsel for the petitioner and Mr.Akhil Akbar Ali, learned Government Advocate, appearing for the respondents. The materials available in the form of typed set of papers, have been perused.

11. The main grievance of the petitioner is that the respondents have acquired lands in Kelambakkam Panchayat, for laying a 200 feet outer ring road for IT Highway in S. Nos.4, 43, 44, 46, 47 and the work is progressing. The abovesaid survey numbers run through Thazhangal lake. The respondents have proposed to make the said outer ring road/over bridge in the above said lakes only in part and not throughout the entire stretch of the lakes, and now the said work is under construction for over bridge in the above said lakes. It is the further grievance of the petitioner that sand and debris coming out of the construction work were thrown in the water catchment area of the lake and the same was levelled by the respondents, thus the construction of road inside the water catchment area is under process.

12. It is to be noted that when construction work is carried on in a particular place, sand and debris or wastages would be there and it is not going to be kept permanently there. Once the work is over, sand and debris would be cleared and thus there is no obstacle for flow of water in the survey numbers, where the lake is situated.

13. It is the further grievance of the petitioner that the entire length of S. No.4 (Poonthangal lake) is 105 metres, out of which over bridge is being constructed only in 50 metres length and the remaining 55 meters which is water catchment area of the lake has been levelled with sand and debris for road construction. For the above said averment of the petitioner, learned Government Advocate submitted that the same is only a temporary arrangement for transporting sand, blue metal, bricks, cement etc. to the construction spot and it is not going to be a permanent hindrance to the catchment area. Once the construction is completed, the temporary road would be removed. He further submitted that the respondents have not violated any of the guidelines and not disturbed or distracted the water catchment area in the name of development plan.

<https://hcservices.ecourts.gov.in/hcservices/>

14. It is the further grievance of the petitioner that his representation has not been answered. The representation of the

petitioner and the averments are answered in this writ petition. Therefore, there is no need to issue any mandamus.

In the light of the above discussion, the writ petition is dismissed. However, there shall be no order as to cost.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The District Collector
Kancheepuram
- 2.The Tahsildar
Tiruporur
Kancheepuram
- 3.The Executive Engineer
State Highways Department
Thirukazhukundram

+1 cc to Mr.D.Parventhan,Advocate Sr.No. 55771

+1 cc to The Special Government Pleader, SR NO.:No.55179

W.P.No.18368 of 2019

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