

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.04.2019

CORAM:

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

W.P.No.12197 of 2019
and WMP No.12469 of 2019

R.Mariappan

.. Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by Secretary to Government,
Highways and Minor Ports Department,
Secretariat, Fort St. George,
Chennai - 600 090.

2. The Regional Officer,
Regional Office,
Ministry of Road Transport and Highways,
Block-A, C Wing, Rajaji Bhavan,
Besant Nagar, Chennai - 600 090.

3. The Director General,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai - 600 025.

4. The Chief Engineer,
National Highways,
Guindy, Chennai - 600 025.

5. The Project Director,
National Highways Authority of India,
Ministry of Road Transport & Highways,
D.No.212-3/D3-1, Srinagar Colony,
Narasothipatti, Salem - 636 004.

6. The Divisional Engineer,
National Highways, Salem.

.. 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 forthwith undertake the repair and

maintenance of the road stretch from Manchavadi Kanavai to Vaniyambadi road on priority basis and relay the upgraded NH 179A road starting near Salem connecting Ayothiapattinam, Pappiredipatti, Harur, Uthangarai, Thirupathur and terminating its junction with NH-48 near Vaniyambadi as notified by the Ministry of Road Transport and Highways on 06.06.2017 in the Gazette of India and the press release issued by the Government of Tamil Nadu in Press Release No.797 dated 23.11.2017.

For Petitioner : Mr.G.Arul Murugan

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

O R D E R

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

Petitioner, a resident of Harur Taluk and claiming himself to be a public interest litigant, has filed the instant writ petition, for a Writ of Mandamus, directing the respondents herein to forthwith undertake the repair and maintenance of the road stretch from Manchavadi Kanavai to Vaniyambadi road on priority basis and re-lay the upgraded NH 179A road starting near Salem connecting Ayothiapattinam, Pappiredipatti, Harur, Uthangarai, Thirupathur and terminating its junction with NH-48 near Vaniyambadi as notified by the Ministry of Road Transport and Highways on 06.06.2017 in the Gazette of India and the press release issued by the Government of Tamil Nadu in Press Release No.797 dated 23.11.2017.

2. Facts of the case leading to the filing of the instant writ petition, are as follows:

(i) The road starting from Ayothiapattinam in Salem District going through Harur, Tirupathur and terminating at Vaniyambadi was originally a State Highway (SH-18). It was under the control and maintenance of the State Highways Department. This road has always been neglected and ignored and the road has not been laid for the past 10 years. When people from several quarters were requesting the State Highways Department incessantly to re-lay the road as it has been badly damaged, around 4 years ago, only minor repair works were carried out. Now that the road connecting Ayothiapattinam in Salem District and Vaniyambadi has been declared as NH 179A and the same has been notified by the Ministry of Road Transport and Highways on 06.06.2017 in the Gazette of India, it has been taken over by the National Highways. As per the notification NH 179A, road starts near Salem connecting Ayothiapattinam, Pappiredipatti, Harur, Uthangarai, Thirupathur and terminates at a junction with NH-48 near Vaniyambadi.

(ii) State Highways road, SH-18, Ayothiapattinam (Salem)-Vaniyambadi road has been upgraded to National Highways road, NH 179A as early as on 12.06.2017. Even after the expiry of nearly 2 years, the NH 179A road remains neglected and ignored. There has been no maintenance or repair work or no attempt has been undertaken to re-lay the road by the National Highways Department. The road particularly from Manchavadi Kanavai to Vaniyambadi has been damaged very badly. There are big potholes in the road that makes the road unusable, risky and life threatening for the public.

(iii) Government of Tamil Nadu have issued a Press Release No.797 dated 23.11.2017, which contains the details of the works that needs to be carried out in the roads that have been upgraded as National Highways. Clause 5 of the Press Release contains the following,

"5. ENTRUSTMENT OF NEWLY DECLARED NATIONAL HIGHWAYS TO THE STATE:

Recently, MORT&H vide Gazette Notifications dated 06.06.2017 declared 3 (three) new NHs in the State, Viz: Thanjavur - Perambalur - Athoor section of NH-136, Salem - Harur - Vaniyambadi section of NH-179A and Thoppur - Mettur - Bhavani section of NH-544H and entrusted the development activities to NHAI. Since NHAI has a big shelf of projects in the State for study and their implementation, these new NHs should be entrusted to the State Government for maintenance and development duly considering the willingness of the State to undertake implementation of the projects with a suitable reduction in centage/agency charges as already conveyed by me vide D.O. Letter dated 7.10.2017. In the meanwhile, considering the present deteriorated condition of certain stretches of newly declared NHs, immediate restoration is warranted.

Immediate Measure:

In Salem - Tirupattur - Vaniyambadi Road, around 56 km is heavily damaged and requires immediate renewal to make it motorable for which an allocation of Rs.22 Cr may be sanctioned to the State Government in addition to the 19 routine maintenance allocation of Rs. 10 Crore for all the newly declared 3 NHs.

Permanent Measure:

DPR for the above three roads have already

been communicated to MoRTH. Sanction may be accorded in the first instance for Land Acquisition for 4 laning these stretches and works may be taken up through State NH wing on completion of land acquisition.

(iv) The road connecting Salem and Vaniyambadi through Harur, Tirupathur is strategically located for the entire vehicles, trucks and goods travelling and reaching Vellore, Chennai and Andhra Pradesh. It is due to this reason of importance of such magnitude, State Highways Road SH-18 has been upgraded as National Highway Road NH-179 A. But the road stretching from Manchavadi to Vaniyambadi has become very badly damaged. The villagers, elderly people, school going children, merchants, transport operators, trucks in large numbers are dependent only on this road for their day to day transport and livelihood necessities. The road condition at present has deteriorated from a very bad condition and is at a worst possible state. Now it is in a situation where no emergency vehicles, be it an ambulance or the school vehicle can be operated safely as there are huge pot holes. At some major sections along this route, there is no road.

(v) Due to this disparate road condition, no one is willing to operate the vehicles through this route. As a result the commodities produced by the agriculturalists from in and around revenue villages, where agriculture is the predominant livelihood activity, are unable to be transported to the markets and the agriculturalists are put to huge loss. The patients from the hospitals within these areas find it entirely unsafe to be shifted to any other specialty hospitals during emergencies owing to the dire road conditions. Critical patients are immobilized and are refrained from getting timely treatments.

(vi) There are around 11 colleges, 27 schools, several factories and around 20 hospitals apart from other business establishments, traders, merchants, agriculturalists who are solely dependent on this road for transport. Due to this very bad road condition, life of the commuters, the transport operators and the school going children are at recurrent risk. There are continuous accidents taking place in this stretch due to the poor damaged state of the road. Further the vehicles are constantly damaged when operated in this road and the residents

using this road are put to heavy damages and huge risk to their safety, wellbeing and life. Due to the bad road condition, the lives of the people and school going children are always at danger with frequent accidents.

(vii) Almost all the sections of the people who are dependent on this road have made complaints, sent representations, organized meetings in order to bring it to the notice of the respondents about the pathetic condition of the road and the damages suffered along with the perennial risk at which the children are sent to school each day and requested the respondents to take urgent steps to repair the road which has been upgraded as NH 179A.

(viii) On the representation submitted by the Harur Taluk Bus Owners requesting to repair the road as there are huge potholes and holes in the road, the Director General, Highways Department by letter dated 07.06.2018 has forwarded the representation to the Chief Engineer, National Highways, for taking immediate action as it pertains to the National Highway. Pursuant to which the National Highways Authority of India, by letter dated 09.06.2018 has intimated that the grievances has been forwarded to the Chief Engineer, National Highways, Chennai, the 4th respondent herein, to take immediate action. Since there was no response, a further representation was submitted by the same association on 25.07.2018 to the Director General, Highways Department, Chennai, the 3rd respondent herein, enclosing the photographs and all other materials and the same was forwarded to the 4th respondent by a letter dated 07.08.2018 intimating them to take immediate necessary action in this regard.

(ix) The road has been left without any relaying for nearly 11 years and due to the rains the roads have become further damaged and completely unusable, the Lions Club of Harur made a detailed representation to the National Highways Authority and the Highways Department on 09.06.2018, 15.09.2018 and 22.10.2018. The Chief Engineer, National Highways by proceedings in letter dated 22.11.2018 sent a communication stating that earlier the road was maintained by State Highways Department and that the road has been notified and taken over by the Ministry of Road Transport, New Delhi and the necessary funds and proposals have been requested from the Ministry of Road

Transport for undertaking immediate repair, maintenance and relaying of the road.

(x) Harur Town Trader Sangam has submitted a detailed representation to the respondents bringing to their notice about the damaged conditions of the road and requested immediate repair work. National Highways Authority of India has sent a communication that the road is being maintained by the State National Highways and therefore the petition has been forwarded to the Divisional Engineer, National Highways, Salem. Due to the damaged state of the road, Rice mill and Oil mill owners association had submitted a detailed representation on 20.09.2018 and the Divisional Engineer, National Highways by proceedings in letter dated 03.10.2018, intimated that the estimate has been prepared for repair and maintenance and the same has been forwarded to the concerned Office and that the work will be immediately undertaken soon and when the sanction is received.

(xi) Harur Town Trader Sangam has sent a further representation dated 13.11.2018 bringing to the notice that the road has not been re-laid for the past 10 years and no repair works has been carried out and there have been huge damages to the public in terms of their safety, vehicles and well being and the same has been forwarded to the Chief Engineer to take immediate steps with respect to the grievance submitted. Apart from this, separate representations have been submitted by the Harur Taluk Travels Owners Sangam and the Lorry owners Association and there have been several meetings, agitations and dharnas by the public to bring it to the notice of the concerned authorities for the immediate repair and maintenance work. The pathetic conditions of the road and the damages caused to the public have been reported almost in all the daily newspapers with photographs.

WEB COPY

(xii) In spite of all these things, there has been no effective representation till date and even the repairing of the road has not been undertaken and all our efforts to bring it to the notice of the authorities to take immediate and suitable action in this regard has failed. In fact all the general public are conducting meetings jointly and all the representations submitted to the authorities have been collected and since there has been no effective result, petitioner has preferred the

instant writ petition, for the relief stated supra.

3. Supporting the prayer sought for, Mr.G.Arul Murugan, learned counsel for the petitioner made submissions.

4. On notice, the Divisional Engineer, National Highways, Salem, has filed a counter affidavit and the same reads thus.

(i) Salem-Thiruppathur Vaniyambadi road was originally a State Highway (SH -18) under the control of State Highways, Construction & Maintenance wing. This road was then upgraded as a National Highways -179A vide Gazette of India notification dated.06.06.2017. The Road Starts from Ayothiyapattinam in Salem District and passes through Harur (Dharmapuri District), Uthangarai (Krishnagiri District), Thirpathur and Vaniyamabadi (Vellore district). Total length of the road is 125.200 Km (Km 0/0 - Km 125/200). The road joins with NH- 48 near Vaniyambadi.

(ii) Ministry of Road Transport and Highways (MoRT&H) vide, Gazette notification dated 13.10.2017 has entrusted the Salem-Harur-Uthangarai -Thiruppathur- Vaniyambadi road, NH-179A to National Highways Authority of India (NHAI).

(iii) The above notification was further amended by the Ministry of Road Transport and Highways (MoRT&H) vide, Gazette notification dated 24.01.2019 and the stretch from Km.0/0 - Km.35/600 (35.60 Km) of the NH-179A (Salem - A.Pallipatty section) was entrusted to the National Highways Authority of India. The balance stretch from km 35/6-125/2(near vaniyambadi) was entrusted to National Highways wing of State Government of Tamilnadu. Presently, this stretch of road from km0/0-35/6 (Salem-A.Pallipatty section) comes under the Jurisdiction of Project Director, National Highways Authority of India (NHAI).

(iv) Km 35/6-93/6 (A-Pallipatty- Krishnagiri district border is under the jurisdiction of Divisional Engineer, National Higways, Salem and the stretch of road from Km.93/600 - Km 125 200 (krishnagiri district border-NH-48 Junction near Vaniyambadi) is under the Jurisdiction of Divisional Engineer, National Highways, Vellore. Patch work has been completed in these stretches under the control of National Highways wing of State Highways department. The work was started in the month of February 2019 itself and completed on 10.04.2019. After the notification of this stretch Km.35/6 - Km. 125/2 of NH 179A as National Highways coming under the control of National Highways wing of State Government, National Highways has taken immediate steps to attend potholes and patches. Along with the affidavit, the deponent has enclosed photographs of the patch works. According to the respondent, the contention of petitioner that

the road is in bad shape at present is factually incorrect and misleading.

(v) At present, stretch of road km 0/0-35/6 coming under the Jurisdiction of Project Director, NHAI, Salem is also in motorable condition. Further, Project Director, NHAI, Salem has informed that sanction of estimates for repairs to this stretch is awaited from the Competent Authority at NHAI, Delhi.

(vi) Considering the importance of the road and traffic intensity the work of "Widening existing 2- Lane to 4 lane with paved shoulder including strengthening the existing carriageway from Km.36/0-80/0 of Salem - Tirupatur - Vaniyambadi road NH 179A" in Tamilnadu for an estimate cost of Rs.298.00 Crores has been approved by Ministry (MORT&H). Tender has been received and its opening date postponed to 29.05.2019, due to model code of conduct coming into force. The stretch of road from km 80/0-125/2 will be proposed under Annual Plan 2019-2020 for widening to four lane and strengthening.

(vii) The petitioner knew very well the patchwork being done in this road from the month of February 2019. Riding surface of the road is renewed based on severity of damages and availability of funds. In many situations filling of potholes and attending will be sufficient to lengthen the serviceability of the carriageway. The petitioner has chosen to ignore the maintenance works currently being done and filed the writ petition with vested interest.

5. Heard the learned counsel for the petitioner and Mr.E.Manoharan, learned Additional Government Pleader and perused the materials available on record.

6. From the counter affidavit of the Divisional Engineer, National Highways, Salem, it could be seen that patch work is being done in certain places, making the road, to a motorable condition. For the stretch of road 0/0-35/6km coming under the jurisdiction of Project Director, NHAI, Salem, sanction for assessment of repairs, is awarded from the competent authority, NHAI, New Delhi. For the work of "widening, the existing two-lane to four-lane with paved shoulder, including strengthening the existing carriageway from Km.36/0-80/0 of Salem-Tirupatur-Vaniyambadi road, NH 179A" in Tamil Nadu, an estimate cost of Rs.298 Crores, has been approved by the Ministry of Road Transport and Highways. Tender has been received and opening date has been postponed to 29.05.2019, due to the Model Code of Conduct, coming into force.

7. Added further, Mr.E.Manoharan, learned Additional Government Pleader appearing for the 1st respondent/Secretary to the Government, Highways and Minor Ports Department, Chennai,

submitted that no sooner the Model Code of Conduct expires, tender would be opened on 29.05.2019 and further steps would be taken towards the work of widening the existing lane.

8. Grievance of the petitioner is that the road under the control of the State Highways, is not been maintained properly and that the same is not in motorable condition. Having regard to the facts on hand, we make it clear that the Secretary to the Government, Highways and Minor Ports Department, Chennai, shall direct the concerned to make the road motorable, repair the patches, wherever found at the earliest.

9. With the above directions, writ petition is disposed of. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

ars/dm

To

1. The Secretary to Government,
State of Tamilnadu,
Highways and Minor Ports Department,
Secretariat, Fort St. George,
Chennai - 600 090.

2. The Regional Officer,
Regional Office,
Ministry of Road Transport and Highways,
Block-A, C Wing, Rajaji Bhavan,
Besant Nagar, Chennai - 600 090.

3. The Director General,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai - 600 025.

4. The Chief Engineer,
National Highways,
Guindy, Chennai - 600 025.

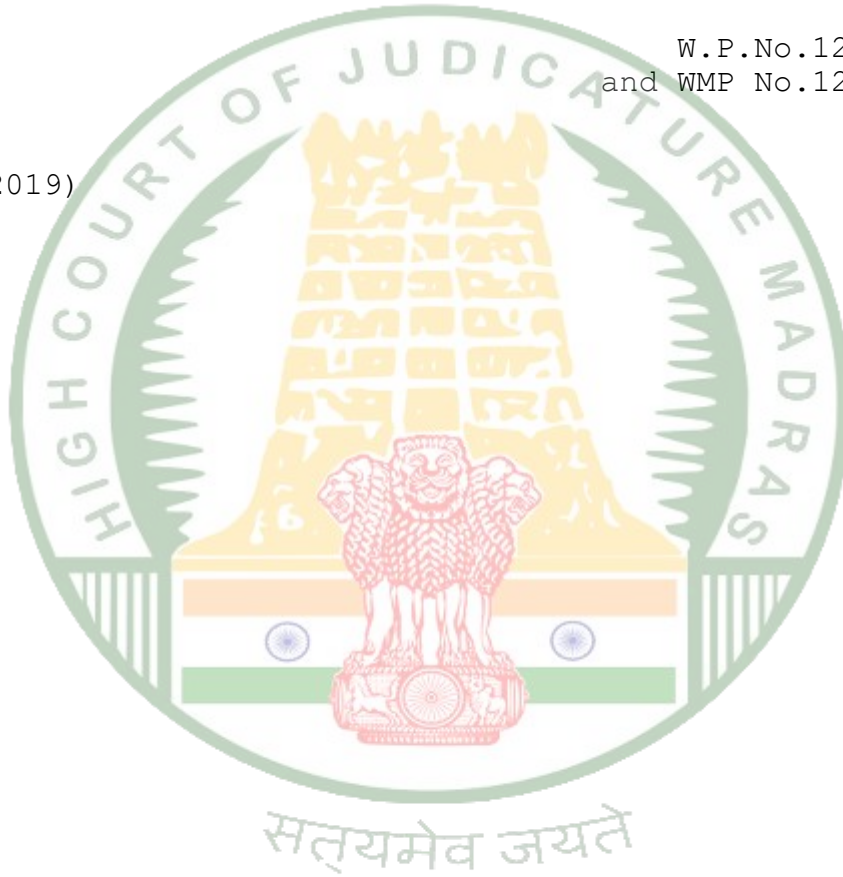
5. The Project Director,
National Highways Authority of India,
Ministry of Road Transport & Highways,
D.No.212-3/D3-1, Srinagar Colony,
Narasothipatti, Salem - 636 004.

6. The Divisional Engineer,
National Highways, Salem.

+lcc to the Government Pleader, S.R.No. 43071

W.P.No.12197 of 2019
and WMP No.12469 of 2019

SV(CO)
GN(24/05/2019)



WEB COPY