

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD
W.P.No.18443 of 2019
and W.M.P.No.17767 of 2017

P.Ayyamperumal .. Petitioner

Vs.

1. The State of Tamil Nadu
Rep.by the Secretary
Municipal Administration & Water Supply Department
Fort St.George
Chennai-600 009
2. Managing Director
Chennai Metro Water Supply & Sewerage Board (CMWSSB)
No.1, Pumping Station road
Chindadripet, Chennai -600 002
3. Superintending Engineer
Chennai Metro Water Supply & Sewerage Board (CMWSSB)
No.1, Pumping Station road
Chindadripet, Chennai -600 002
4. Aravindramesh. S
Member of Legislative Assembly (MLA)
Shollinganallur Constituency
120, Old Mahabalipuram Road
Nedunchezyian Salai, Shollinganallur
Chennai-600 119 .. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking a Writ of Mandamus directing the respondents to complete the preparation of Detailed Project Report (DPR) for providing underground sewerage scheme to Madipakkam as informed vide letter No.CMWSSB/P&D/E.E.I/Madipakkam/Spl/2019 dated 17.05.2019 and undertake and complete the drainage work on time bound manner.

For Petitioner

: Mr.P.Ayyamperumal,
Petitioner-party-in person

For Respondents

: Mr.G.Janaki Raman
for R2 and 3

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O R D E R

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

The petitioner, a resident of Madipakkam, Chennai, has filed this instant petition for Public Interest praying for a direction to the respondents to complete the preparation of Detailed Project Report (DPR) for providing underground sewerage scheme to Madipakkam as informed vide letter No.CMWSSB/P7E/E.E.I/Madipakkam/Spl/2019 dated 17.05.2019 and undertake and complete the drainage work on time bound manner.

2. Petitioner/party-in-person has submitted that during 2016 Madipakkam area was merged with Chennai Corporation. The revenue of Greater Chennai Corporation was gone up, as expected while the basic amenities have become a distant dream for the people of Madipakkam areas. Despite unexpected development, basic amenities such as drainage and sewerage system, roads, storm water are yet to be provided to this area. CMWSSB Board was formed by an Act called Chennai Metropolitan Water Supply and Sewerage Act and CMWSSB stands committed to making a positive contribution to improve the Chennai city environment and to enhance the health and quality of life by providing them with adequate supply of safe and good quality of water and safe disposal of sewerage facility.

3. Petitioner/Party-in-person has submitted that CMWSSB was constituted to attend the growing needs of water supply and sewerage services in Greater Chennai Corporation with particular reference to the protection of public health and for all the matters connected therewith or incidental thereto. The administration of the Board is governed by the Board consisting of Board of Directors headed by the Secretary to Government, Municipal Administration and Water Supply Department as its Chairman and Managing Director, who is the Chief Executive Authority to the Board is in charge of the day to day administration of the Board.

4. Petitioner/party-in-person has further submitted that due to non availability of drainage and sewerage facilities, the cesspools have been used by all the houses and apartment, which led to overflow. Letting out of sewage water to the public road and to the adjacent vacant lands, had been informed to the concerned authorities, but no action was taken.

5. Petitioner/Party-in-person has further submitted that 4th respondent CMWSSB during election campaign in 2016, promised to the electorate of Madipakkam that he would provide underground sewerage facility , but he too did not put any effort to bring drainage facility as promised. Petitioner/party-in-person has submitted that due to lack of drainage system in Madipakkam area the night soil, domestic effluent etc, are being discharged into cesspools and due to less absorbing capacity of the cesspools, without monsoon, they keeping overflowing, spreading the dirty water on private premises as well as public road and in the monsoon the condition is worsened.

6. Petitioner/party-in-person has further submitted that it is the function of the local authority to maintain cleanliness by timely disposal of the garbage and solid waste and to resolve the difficulties of the citizens . He further submitted that despite paper reports and personal representation they did not undertake any steps to provide drainage system to Madipakkam area, which has been merged with Greater Chennai Corporation in 2011. The petitioner vide letter dated 06.09.2018 has sought certain information:

- a) The particulars of G.O annexing Madipakkam, Chennai-600 091 with Greater Chennai Corporation.
- b) The date of sanction of funds with particulars of allotment details and amount sanctioned for the area
- c) Reasons for not undertaking sewage and drainage facilities despite sanctioning of funds few years back.

7. Petitioner/Party-in-person has submitted that in response to the above queries, the 3rd respondent vide a reply dated 08.10.2018 furnished the details that the preparation of Detailed Project Report (DPR) for providing underground sewerage scheme to Madipakkam is under progress. After completion of DPR, the project will be undertaken.

8. Petitioner/Party-in-Person has sent a representation dated 24.04.2019, requesting to undertake the drainage work immediately so as to provide clean environment and better quality of life to the inhabitants of Madipakkam. In response to the above representation the 2nd respondent vide letter No.CMWSSB/P7E/E.E.I/Madipakkam/SP1/2019 dated 17.05.2019 informed that " after the completion of DPR and after availing funds for implementation of the scheme, tender will be called for to take up the work. Although more than 8 years have been passed, no work was initiated by the respondents to provide underground sewerage scheme to Madipakkam thereby committing public nuisance under Section 133 of CR.P.C, which is punishable u/s. 268 of IPC and the petitioner/party-in-person seeks for a direction to the respondents to complete the preparation of Detailed Project

Report (DPR) for providing underground sewerage scheme to Madipakkam/Spl/2019 dated 17.05.2019 and undertake and complete the drainage work in a time bound manner.

9. when the matter came up for hearing, this Court has passed the following order:

" No appearance for the petitioner.

2. Affidavit of the Superintending Engineer (Planning & Design), Chennai Metro Water Supply & Sewerage Board (CMWS&SB), Chennai dated 02.07.2019 does not contain the details of the steps taken after 24.10.2016, and it is stated as follows:

"7... the preparation of the final report and draft bid document are under progress by the consultant and the same would be submitted on or before 31.08.2019.

8. Final Bid Document to be submitted within 30 days after approval of Final Report and Draft Bid Document.

9. Subsequently, Administrative & Technical Sanction will be accorded. Further, tender settling process will be completed in 6 months. Work will be executed and will be completed in 36 months from the date of award of contract.

10. Outline Proposal cost of the above scheme works out to Rs.160 Crores."

3. Added further, Mr.G.Janaki Raman, learned counsel for (CMWS&SB), Chennai, respondents 2 and 3 submitted that additional affidavit would be filed setting out the details of the steps taken by the Board.

4. Additional affidavit be filed with supporting documents.

5. Post on 05.07.2019 in the motion list."

10. When the matter came up for hearing on 05.07.2019, the 3rd respondent, Superintending Engineer, CMWSSB has filed an affidavit stating as per G.O(Ms) No.256, MA&WS (Election) Dept. dated 26.12.2009 that the extent of the expanded Chennai City limit is extended to 426 sq km from the earlier area of 174 sq km. As per the said G.O, the administration of the expanded Chennai City came into effect from 20.10.2011. Therefore, CMWSSB had to implement water supply schemes and underground sewerage schemes in the newly annexed 42 local bodies as well as to other areas, within Chennai Metropolitan Area. He further submitted that the present status of underground sewerage scheme in 42 added areas are as given as follows:

CMWSSB has commissioned comprehensive underground sewerage scheme to 10 areas viz., Valasarawakkam, Alandur,

Puzhuthivakkam, Madhavaram, Meenambakkam, Madhuravoyal, Nolambur, Surapet, Puthagaram and Kathirvedu.

11. Learned counsel for CMWSSB submitted that CMWSSB is presently undertaking 15 underground sewerage schemes to Perungudi, Porur, Pallikaranai, Ambattur, Thiruvottiyur, Kathivakkam, Ramapuram, Sholinganallur, Karapakkam, Manapakkam, Manali, Chinnasekkadu, Karambakkam, Mugalivakkam and Nerkundram.

12. DPR for Okkiyam Thoraipakkam (1) is being prepared as in-house by CMWSSB and is under progress.

The DPR for providing UGSS to Edayanchavadi, Sadayankuppam, Kadapakkam (3) was posed under AMRUT during the year 2016. Due to low population density of less than 100 person per hectare, it was not approved by CPHEEO. As such CMWSSB will be taking up this project only after assessing the population growth in 2021. For 13 Underground Sewerage Scheme viz. Nanadambakkam, Kottivakkam, Palavakkam, Neelankarai, Madipakkam, Puzhal, Mathur, Theeyambakkam, Vadaperumbakkam, Semmencheri, Uthandi, Jalladampettai, Injambakkam DPR is being prepared by the M/s Sai Consulting Engineers Pvt Ltd including DPR for Left out streets of Madhavaram. Objective of Providing Underground Sewerage Scheme is safe disposal of sewage / waste water for enhancing the health & quality of life for citizens by collecting sewage generated from households through Gravity Sewer Line to Sewage Pumping Station. From Sewage Pumping Station the sewage will be disposed into Existing Sewage Treatment Plant.

13. Learned counsel further submitted that the present status of DPR for Under Ground Sewerage System to Madipakkam is as follows:

1. The Madipakkam comprises of Divisions 187 & 188 of Greater Chennai Corporation.
2. Madipakkam area covers 3.40 Sq.Km with 658 nos. of Street for a length of 130 Km.
3. Present population of Madipakkam is around 48710 nos.
4. The Under Ground Sewerage Scheme is being designed for 30 years.
5. Components of the Scheme.

Providing collection system for the above areas consists of DWC & Cl pipes ranging from 200mm to 700mm for a length of 98.83 Km for various depth from 1.0m to 6.0m. The total no. of manholes proposed is 3784 with provision of HSC of 9750 Nos using of UPVC.

Providing pumping main with Cl pipes ranging from 150mm to 600mm for a length 8.80 Km.

Construction of 4 Nos Pumping Station with Screen cum Grit Well, Suction Well and Construction of 2 Nos Lift Station and Pump House with pumping equipment and allied electrical works.

The sewage collected from Madipakkam area it will be disposed to the existing Sewage Treatment Plant located at Perungudi which is 4.5Km from the Terminal Pumping Station at Dumping Yard.

6.Preparation of detail project report for providing under ground sewerage scheme in Madipakkam and 10 added areas of Chennai city was awarded on 24.10.2016 to Ms. SAI Consulting Engineers Pvt Ltd at a total cost of Rs.1,48,59,695/- i.e area covered- thiyambakkam, Vadaperumbakkam, Mathur, Puzhal, Nandambakkam, Madipakkam, Kottivakkam, Palavakkam, Neelangarai, Semmancheri, Uthandi and awarded subsequently 3 added areas namely Jalladampettai, Injambakkam and left out areas of Madhavaram at a total cost of Rs.37,00,000/- on 30.01.2018.

7. The consultant scope of works involves submission of Inception Report, Interim Report, Dissemination Report (Phase I), Draft Final Report, Dissemination Report (Phase II), Final Report along EIA (Environmental Impact Assessment) Report & SIA (Social Impact Assessment) Report, Draft Bid Document, Final Bid Document (i.e Contract condition, Specification, Bill of Quantities and Drawing).

8. The details of stage wise work of consultant are as follows:

a) Inception Report - The Inception Report shall include the basic details of the project with methodology and work plan and way forward.

The work involved for preparation of Inception report includes reconnaissance survey covering the project areas and collection of relevant second hand information available and preliminary observation.

The report comprises of description of the project area namely Land Use, availability of existing infrastructure system, Population, Climate & Rainfall, Physical, Geographical and Historical Features etc. Methodology / concept to be adopted / followed for design of collection system, pumping station and pumping main based on advanced technologies. Concept to be adopted/followed for pumping main based on advanced technologies. Concept to be adopted / followed for collection of primary

(topographical, soil investigation etc) and secondary data (Environmental & Social Impact), surveys and assessment and analysis etc.

The consultant shall furnish data collection plan and way forward.

b) Interim Report - The Interim report shall include the Status assessment, Preliminary design, block cost estimates, Initial Environmental and Social Screening Report, Provisional Environmental and Social Categorization of the sub project and draft designs.

The work involved for preparation of Interim report includes detailed topographical survey work for 13 added areas & left out areas of Madhavaram for a length of 720 Km and preparation of road plan with levels at every 30m interval & at Junction of roads and Geo technical Investigation / soil investigation at all Pumping station location and along the road for deciding type of foundation to be adopted for structure (i.e Manholes, Wells & pump Room), present of type of soil and calculation of safe Bearing and draft design of Collection system, Pumping station and Pumping Main for all added areas as per CPHEEO 2013 manual / guidelines followed by CMWSSB /advanced technology.

The Consultant shall furnish drawings, maps, concept plan and draft design with block cost estimate in the interim report incorporating the observations/comments given by the Technical Review committee.

c) Dissemination Report - The work involved for preparation of Dissemination report includes conducting Stakeholder's meeting with other Government Departments like NHAI, State Highways, Greater Chennai Corporation, TNUISL, BSNL, PWD, etc) & Agencies and the second with the General Public, NGOs, Civil Societies to obtain feedbacks / comments to be incorporated in the design and estimate.

The consultant shall furnish feedback forms and summary of the outcome of the consultations in the Dissemination report.

d) Draft Final Report - The Draft Final report shall include Draft Detailed design, Environmental and Social Assessment Report, Detailed Engineering Estimates and BoQs, phasing and packaging plan.

The work involved for preparation of Draft Final Report includes detailed design and preparation of cost estimates & BoQ,

Implementation Plan for execution, Cost estimates for Environmental Impact Assessment & Environmental Management Plan, preparation of Drawing for structural design, contour, collection system of Network drawing.

The Consultant shall furnish Designs, Estimate, drawings, Geo Tech Investigation & Water Quality Report in the Draft Final Report incorporating the observations / comments given by the Technical Review committee.

e) Final Report and Draft Bid Document - The Final report shall include Detailed design, Environmental and Social Assessment Report, Detailed Engineering Estimates and Bill of Quantities, Draft Bid Documents.

The work involved for preparation of Final Report includes detailed design and cost estimates & Bill of Quantities, Implementation Plan for execution, Cost estimates for Environmental Impact Assessment & Environmental Management Plan, preparation of Drawing for structural design, contour, collection system of Network drawing, Three financial models to be prepared one with the assumption of implementing the project by ULBs own fund, State Govt & Central Government grants, loans through Externally Assisted Project. The Consultant to arrive at the user charges by adopting different pricing options. Preparation of draft bid document as per the Tamil Nadu Transparency in Tender's Act 1998 and Rules 2000 as well as per the requirement of the funding agency along with Bill of quantities & drawing.

The Consultant shall furnish Designs, Estimate, drawings, Geo Tech Investigation & Water Quality Report, Package wise draft Bid documents with annexures (BoQ, Drawings, EMP), Implementation Mechanism (institutional setup, manpower requirement etc.), Financial & Economic Report in the Final Report incorporating the observations/comments given by the Technical Review Committee.

f) Bid Document - The Consultant shall furnish Package wise Final Bid documents

Volume I - Invitation of Bids, Instruction to bidders, Conditions of contract, Contract Data

Volume II - Technical Specification for civil & electrical works.

Volume III - Bill of Quantities

Volume IV - Drawings

Volume V- Environmental Mitigation Plan

9. The consultant submitted Inception Report on 05.12.2016 and the Technical Review Committee comprising of representative from CMWSSB, TWAD, GCC & TNUIFSL approved on 27.02.2017.

10. The consultant submitted Interim Report on 26.05.2017 and the Technical Review Committee approved on 10.07.2017.

11. Stakeholder's consultation-1 meeting was conducted from 26.07.17 to 03.08.2017 and Dissemination Report-I submitted on 26.09.2017.

12. The consultant submitted Draft Final Report on 01.03.2018 and the Committee suggested to redesign and submit revised draft report incorporating the comments.

13. The consultant submitted revised Draft Final Report on 28.09.2018 and the Technical Review Committee approved DFR on 21.11.2018.

14. Outline Proposal cost of the providing UGSS to Madipakkam works out to Rs.160 Crores.

15. Stakeholders Consultation-II was held on 28.11.2018 & Dissemination Report-II was submitted on 07.12.2018 by the consultant.

16. Now, the preparation of Final Report and draft Bid Document is under progress by the Consultant and the same will be submitted on or before 31.08.2019.

17. Final Bid Document to be submitted within 30 days after approval of Final Report and Draft Bid Document by the Technical Review Committee. The probable date of approval of Final Bid Document by Technical Review Committee will be 31.10.2019.

18. Subsequently, Administrative Approval of the Project by Government of Tamilnadu & Technical Sanction will be accorded within 31.12.2019.

19. Further, Floating of tender & tender settling process will be completed in 6 months and the probable date of issue of work order will be 30.06.2020

20. Probable date of Commencement of Work is July '2020 with 36 months of construction period.

21. Probable date of completion of work will be June'2023.

14. When the matter was listed on 15.07.2019, replying to certain queries raised by this Court, learned counsel for the 3rd respondent submitted that as per the tender Transparency Act, 1998 & Tamil Nadu Transparency in Tenders Rules, 2000, in particular,

" Clause 20: Minimum time for submission of tenders

The minimum period of submission of bid allowed between date of publication of the Notice Inviting Tenders shall be as follows:

(a) for tenders upto rupees two crores in value, fifteen days; and

(b) for tenders in excess of rupees two crores in value, 30 days

Clause 26: Time taken for evaluation and extension of tender validity.

(1) The evaluation of tenders and award of contract shall be completed, as far as may be practicable, within the period for which the tenders are held valid (90 days) for Single Cover System.

(2) The evaluation of lenders and award of contract shall be completed, as far as may be practicable, within the period for which the tenders are held valid (120 days) for Two Cover System.

Provided that sum total of all extensions shall ordinarily not exceed 180 (one hundred and eighty) days.

20. Probable date of Commencement of Work is July' 2020 with 30 months of constructor period. Normal period of 30 months required for carrying out the Underground Sewerage Scheme due to following reasons:

(i) Laying of gravity sewer for Madipakkam for a length of 98.83 Km. For gravity sewer, invert level of manhole to be kept continuously from upstream manhole to downstream manhole keeping the required slope, i.e starting from head manhole 1.0m depth to downstream Manhole 6.0m depth upto pumping station location.

(ii) The sewer line cannot be laid in many streets at the same time, in order to avoid inconvenience to Public.

(iii) In case of high water table, the laying of pipeline and construction of Manhole requires dewatering which causes additional time for the work execution.

(iv) The presence of rock strata involves breaking of rock by chiseling which involves more labour & time for laying of pipes even for a shorter stretch.

(v) The construction of well by Open Excavation method or sinking method involves more labour & time for a larger diameter & capacity of

pumping station and also requires minimum curing period of 3 days for every lift of concrete work.

(vi) Similarly, the construction RCC Manhole requires minimum curing period of 3 days for every lift of concrete work.

(vii) Similarly, the construction RCC Manhole requires minimum curing period of 3 days for every lift of concrete work.

(viii) Obtaining permission for Road Cut from Greater Chennai Corporation / State Highways / National Highways requires a minimum time period of 1 month / 6 months.

(ix) Road cut permission will not be given by Corporation / Highways every year during North East Monsoon period for 3 months (Oct to Dec).

(x) The laying of pipeline along Bus Route requires permission from traffic division of Police department & Planning for diversion of traffic during the work period. Also, the work can be carried out only during night only for 5 hours.

(XI) Probable date of completion of work will be December 2022.

Going through the status report filed by the respondents 2 and 3, this Court is of the view that steps are being taken by the respondents to complete the said project by December 2020. Taking note of the status report filed, we are of the view that no further directions are required to be issued. Accordingly, writ petition is disposed of. No costs. Consequently, the connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (insp cell)

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Sub Assistant Registrar

To

1. The Secretary
State of Tamil Nadu
Municipal Administration &
Water Supply Department
Fort St. George
Chennai-600 009

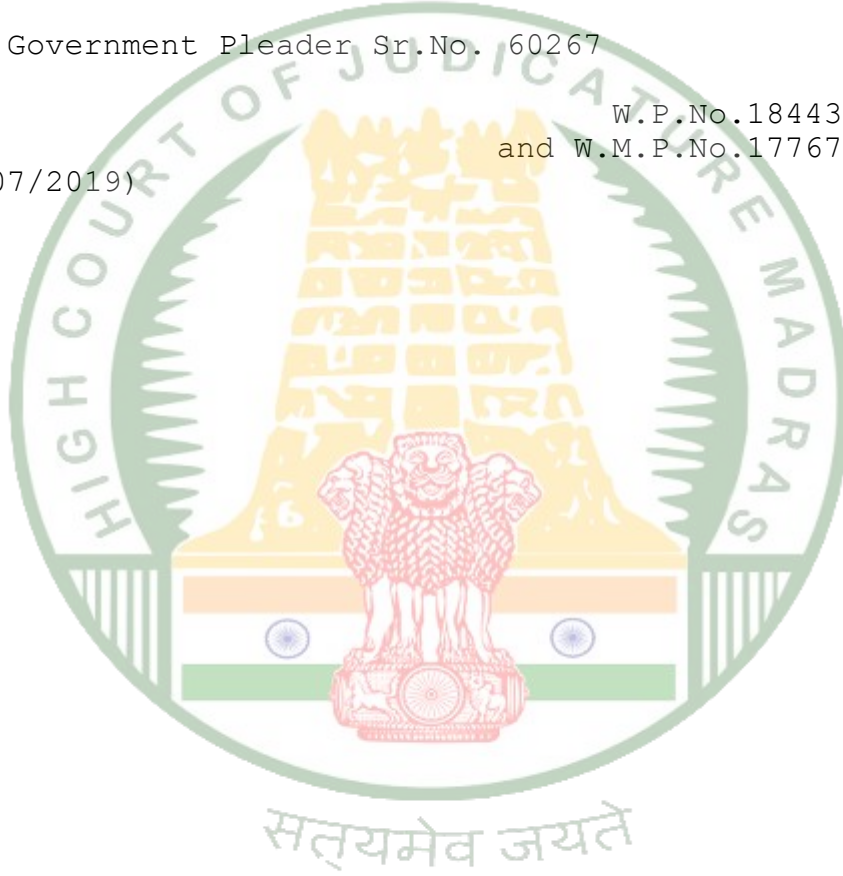
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+1 cc to Government Pleader Sr.No. 60267

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A.SK(29/07/2019)



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