

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 30.07.2019
C O R A M
THE HON'BLE MR.JUSTICE S.MANIKUMAR
AND
THE HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

Writ Petition No.22231 of 2019

Mr.A.Ashvathamam

... Petitioner

Vs

State of Tamil Nadu,
Rep. by its Secretary to Government,
Municipal Administration and Water Supply Department,
Chennai - 600 009. ... Respondent

Writ Petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondent to ensure the effective implementation of the Act 33 of 2003 and G.O.56, Municipal Administration and Water Supply Department dated 21.07.2003.

For petitioner ... Mr.A.Ashvathamam
Party-in-person
For Respondent ... Mr.E.Manoharan
Additional Government Pleader

O R D E R

[Order of the Court was delivered by MANIKUMAR, J]

Mr.A.Ashvathamam, a practicing lawyer as party-in-person, has filed the instant writ petition for a mandamus, directing the Secretary to the Government, Municipal Administration and Water Supply Department, respondent herein, to implement Act 33 of 2003 and G.O.Ms.No.56, Municipal Administration and Water Supply (MA.I) Department dated 21.07.2003, issued with regard to compulsory rain water harvesting scheme. Government Order reads thus.

ABSTRACT

"RULES - Provision of Rain Water Harvesting Structures in buildings - Amendments to Building Rules - Issued.

MUNICIPAL ADMINISTRATION AND WATER SUPPLY (MA.I) DEPARTMENT
G.O. Ms. No.56 Dated : 21.7.2003

Read :

1. G.O. Ms. No.138, Municipal Administration & Water
Supply Department, dated 11.10.2002.

2. G.O. Ms. No.140, Municipal Administration & Water Supply Department, dated 11.10.2002.

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ORDER:

The appended Notifications will be published in the Tamil Nadu Government Gazette - Extra-ordinary dated the 21st July, 2003.

(BY ORDER OF THE GOVERNOR)

L.N. VIJAYARAGHAVAN,
SECRETARY TO GOVERNMENT.

To The Works Manager, Government Central Press, Chennai-79
(for publication of notification in the Tamil Nadu Government Gazette Extraordinary and to supply 50 copies to Government)
The Director of Town Panchayats, Chennai-108
The Commissioner of Municipal Administration, Chennai-5.
The Commissioners of all Municipal Corporations except Chennai.
All Regional Directors of Municipal Administration.
All Assistant Directors of Town Panchayats.
All Municipal Commissioners.
All Executive Officers of Town Panchayats.

Copy to:- The Managing Director, Tamil Nadu Water Supply and Drainage Board, Chennai-5.
The Law Department, Chennai-9. The Municipal Administration & Water Supply (Budget) Department, Chennai-9.
/Forwarded by order/

Section Officer
(Continuation of G.O.Ms.No.56, Municipal Administration & Water Supply Department, dated 21.7.2003).

APPENDIX

NOTIFICATION - I

In exercise of the powers conferred by section 191 and section 303 of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the Governor of Tamil Nadu hereby makes the following amendment to the Tamil Nadu District Municipalities Building Rules, 1972.

AMENDMENT

In the said Rules, for rule 3-B, the following rule shall be substituted, namely:-

"3-B, Provision of Rain Water Harvesting Structure.-
Notwithstanding anything contained in these rules,-

(1) in every building owned or occupied by the Government or a statutory body or a company or an institution owned or controlled by the Government rain water harvesting structure shall be provided in the manner specified in rule 3-A on or before the 10th October 2003;

(2) (a) subject to sub-rule (1) every owner or occupier of a building shall provide rain water harvesting structure in such building in the manner

specified in rule 3-A on or before the 31st August 2003. If the owner or occupier of the building fails to provide the said rain water harvesting structure by the said date, the Executive Authority or any person authorised by him in this behalf may after giving notice to the owner or occupier of the building, cause rain water harvesting structure to be provided in such building and recover the cost of such provision along with the incidental expense thereof in the same manner as property tax. This however, does not absolve the liability of the owner or occupier of the building from providing the rain water harvesting structure before the 10th October 2003.

(b) if the owner or occupier of the building fails to provide rain water harvesting structure on or before the 10th October 2003, the water supply connection provided to such building shall be disconnected till rain water harvesting structure is provided".

NOTIFICATION - II

In exercise of the powers conferred by section 191 and section 303 of the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), the Governor of Tamil Nadu hereby makes the following amendment to the Multi-storeyed and Public Building Rules, 1973.

AMENDMENT

In the said Rules, for Rule 16-B, the following rule shall be substituted, namely:-

"16-B. Provision of Rain Water Harvesting Structure.- Notwithstanding anything contained in these rules,-

(1) in every building owned or occupied by the Government or a statutory body or a company or an institution owned or controlled by the Government rain water harvesting structure shall be provided in the manner specified in rule 7-A on or before the 10th October 2003.

(2) (a) subject to sub-rule (1) every owner or occupier of a building shall provide rain water harvesting structure in such building in the manner specified in rule 7-A on or before the 31st August 2003. If the owner or occupier of the building fails to provide the said rain water harvesting structure by the said date, the Executive Authority or any person authorised by him in this behalf may after giving notice to the owner or occupier of the building, cause rain water harvesting structure to be provided in such building and recover the cost of such provision along with the incidental expense thereof in the same manner as property tax. This however, does not absolve the liability of the owner or occupier of the building from providing the rain water harvesting structure

before the 10th October 2003.

(b) if the owner or occupier of the building fails to provide rain water harvesting structure on or before the 10th October 2003, the water supply connection provided to such building shall be disconnected till rain water harvesting structure is provided".

NOTIFICATION - III

In exercise of the powers conferred by section 268 and section 431 of the Madurai City Municipal Corporation Act, 1971 (Tamil Nadu Act 15 of 1971), the Governor of Tamil Nadu hereby makes the following amendment to the Madurai City Municipal Corporation Building (Water Conservation) Rules, 2002.

AMENDMENT

In the said Rules, for Rule 4, the following rule shall be substituted, namely:-

"4. Provision of Rain Water Harvesting Structure.-
Notwithstanding anything contained in these rules,-

(1) in every building owned or occupied by the Government or a statutory body or a company or an institution owned or controlled by the Government rain water harvesting structure shall be provided in the manner specified in rule 3 on or before the 10th October 2003.

(2) (a) subject to sub-rule (1) every owner or occupier of a building shall provide rain water harvesting structure in such building in the manner specified in rule 3 on or before the 31st August 2003. If the owner or occupier of the building fails to provide the said rain water harvesting structure by the said date, the Commissioner or any person authorised by him in this behalf may after giving notice to the owner or occupier of the building, cause rain water harvesting structure to be provided in such building and recover the cost of such provision along with the incidental expense thereof in the same manner as property tax. This however, does not absolve the liability of the owner or occupier of the building from providing the rain water harvesting structure before the 10th October 2003.

(b) if the owner or occupier of the building fails to provide rain water harvesting structure on or before the 10th October 2003, the water supply connection provided to such building shall be disconnected till rain water harvesting structure is provided".

L.N. VIJAYARAGHAVAN,
SECRETARY TO GOVERNMENT

/TRUE COPY/

SECTION OFFICER "

2. At the time when this writ petition came up for admission, attention of this Court was invited to an earlier order of the Hon'ble Division Bench in WP No.19507 of 2018 dated 07.08.2018, on the same issue. Order reads thus:

"This writ petition has been filed by the petitioner to direct the respondents to monitor proper implementation of G.O.Ms.No.56 dated 21.07.2003 Municipal Administration and Water Supply Department to construct rain water harvesting structure in all the buildings and to also impose fine for the owners of the building who have failed to put up a rain water harvesting structure in their building premises, in response to such request made by the petitioner in his representation dated 18.09.2017.

2. Heard the learned counsel for the petitioner as well as the learned Government Pleader who took notice on behalf of the respondents 1 and 2.

3. The Government has passed an order in G.O.Ms.No.56, Municipal Administration & Water Supply Department, dated 21.07.2003 to construct rain water harvesting structure in all the buildings. According to the petitioner, neither the Corporation nor the Municipalities / local bodies have insisted for constructing the rain water harvesting structure in all the buildings in accordance with the said G.O.

4. It appears that there are some violations of the said G.O., then and there. In this connection, it is needless to state that the Corporation / Municipalities / local bodies have to take care of the violations and to see that the order has to be implemented and things are set right. If the petitioner has any specific grievance, he can make a representation to the concerned authorities pointing out the specific instances of violations and it is for the authorities to consider and set right the things, in accordance with law.

5. The writ petition is disposed of accordingly. No costs."

3. Inasmuch as, mandamus has already been issued, instant writ petition for another writ of mandamus, is not maintainable.

Accordingly, WP No.22231 of 2019, is dismissed. Respondent to implement G.O.Ms.No.56, Municipal Administration and Water Supply (MA.I) Department dated 21.07.2003, strictly in letter and spirit. No Costs.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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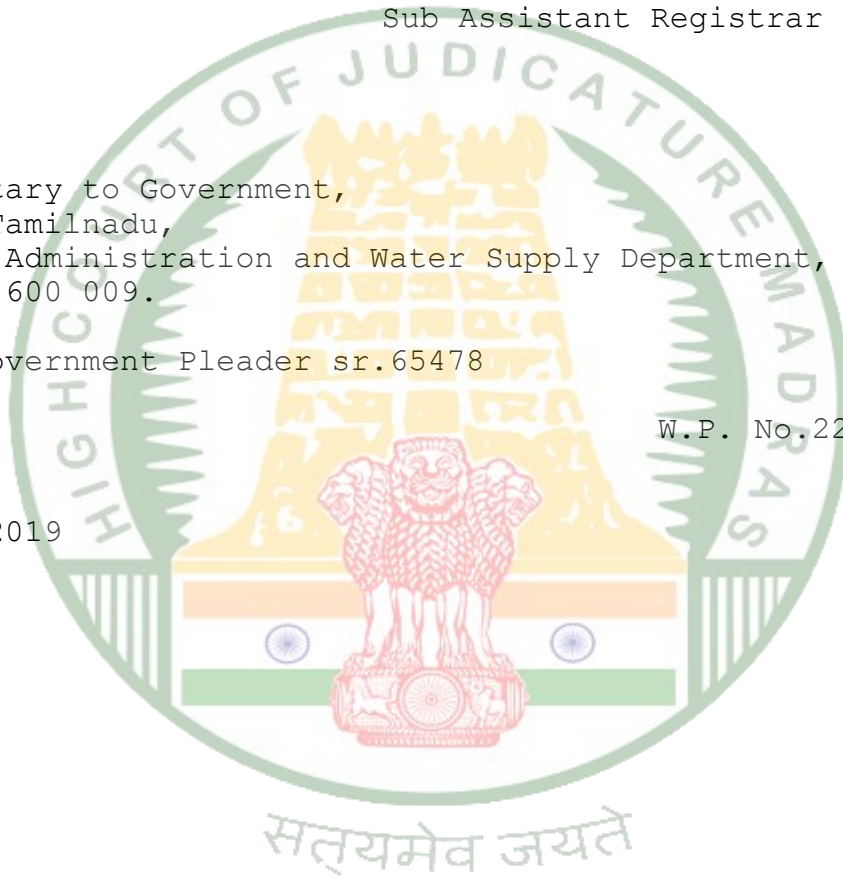
To

The Secretary to Government,
State of Tamilnadu,
Municipal Administration and Water Supply Department,
Chennai - 600 009.

+1cc to Government Pleader sr.65478

W.P. No.22231 of 2019

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