

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 06.09.2019

CORAM

THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN

AND

THE HONOURABLE MR. JUSTICE N.SESHASAYEE

WP.No.19737 of 2018
and WMP.No.23179 of 2018

Gandhi

..Petitioner

Versus

1.The District Collector,
Ariyalur District.

2.The Superintendent of Police,
Ariyalur District.

3.The District Revenue Officer,
Ariyalur.

4.M/s.Dhandapani Cements,
rep.by its Directorate
Kariamannickam Road,
S.Puthur, Samayapuram Post,
Tiruchirapalli District.

..Respondents

PRAYER:- Writ petition filed under Article 226 of the Constitution of India prays to issue a Writ of Mandamus directing the respondents 1 to 3 to restrain the tipper lorries plying through Kallakudi Village, Ariyalur Taluk, and District from the fourth respondent quarry to reach Trichy-Chidambaram Highway.

For Petitioner :Mr.K.Sakthivel

For Respondents : Mr.R.Udhayakumar
Additional Government Pleader
for R1 to R3

Mr.A.R.L.Sundaresan, Senior counsel
for Mr.A.R.Karthick Lakshmanan
for R4

ORDER

[Order of the Court was made by M.SATHYANARAYANAN,J.,]

The writ petitioner claims to be a public interest litigant alleging that on account of transport of limestone by the 4th respondent through Tipper Lorry which ply on the Village Roads of Kallakudi Village, Ariyalur Taluk, the residents are put to extreme hardship, nuisance and serious health hazards in the form of noise.

2. The writ petition was entertained on 19.12.2018 and this Court, taking into consideration the apprehension expressed by the petitioner, has directed the 3rd respondent to cause inspection as to whether on account of the plying of tipper lorries, results in damage to roads and cause noise and air pollution or not?

3. The 1st respondent has filed a counter affidavit stating among other things that the local villagers started doing demonstrations and agitations and therefore, a Peace Committee Meeting was organized, wherein the 4th respondent Management has also participated on 17.06.2016 and 12.07.2016 respectively, so also the villagers and the 4th respondent Company was persuaded to find an alternative route for transport and accordingly, an alternative route in S.F.No.17 part of Periyeri Poramboke which is running on the outskirts of the village was also found out. Since there was a waterway/canal, direction was issued to the 4th respondent to put up a culvert subject to 18 conditions and accordingly, the 4th respondent has complied with all the conditions and also put up a culvert to enable free flow of water on the said waterway. The 4th respondent has used only alternative way for the transportation of the mineral quarried.

4. The 4th respondent has filed a counter affidavit and took a stand that the alternative road which was suggested was inspected by Assistant Executive Engineer, P.W.D, W.R.O, Madurayar Irrigation Division, Ariyalur and feasibility report was also done and thereafter necessary clearance have been accorded to the 4th respondent to put up a culvert and it was also put up in the expense of the 4th respondent and they are using only the alternative way.

5. The learned counsel appearing for the petitioner would submit that though the alternative way has been suggested, the concerned official was not entitled to accord necessary permission for the reason that by using the alternative way, free flow of water would be effected which once again cause inconvenience / hardship to the residents of the Village and prays for appropriate orders banning the usage of the route through the Kallakudi Village as well as the alternative road on

the part of the 4th respondent.

6. The learned Special Government Pleader has drawn the attention of this Court to the counter affidavit of the 1st respondent and would submit that the petitioner, who is claimed to be a Public Interest Litigant, as a matter of right cannot ask for restraint on the part of the 4th respondent to use the public road. In the light of the alleged inconvenience expressed, an alternative way was suggested and since a water canal was passing through, the 4th respondent was granted necessary permission to put up a culvert and a culvert was put up at the expense of the 4th respondent subject to conditions and also produced the photographs to that effect.

7. Mr.A.R.L.Sundaresan, learned Senior Counsel assisted by Mr.A.R.Karthik Lakshmanan appearing for the 4th respondent would submit that the conditions for license have been strictly complied with and permissible safety limits were maintained by the lorries, which are carrying quarrying mineral. Since lorries are using only the alternative route, they also used to be issued with necessary permissions. Considering the sentiments of the Villagers, steps are also taken by the 4th respondent and things are put in place to prevent air and noise pollution and in the event of infraction, if any caused, it may also open to the 1st respondent to abate the said nuisance.

8. This Court has also considered the rival submission and also perused the materials placed before it.

9. The submission of the learned Senior Counsel appearing for the 4th respondent is that after according necessary permission, the culvert has been put up and the lorries which are transporting minerals are using the said pathway and also produced the photographs to that effect which is taken on file and recorded.

10. A perusal of the photographs would disclose that the culvert has been put up to enable the free flow of water canal. As pointed out by the learned Special Government Pleader, though the Village road is a public road, in the light of the objections raised, the 4th respondent has started using the alternative route. The primordial submission of the learned counsel for the petitioner is that since the lorries pass through the waterway, the same cannot be done. In the considered opinion of this Court the said submission is liable to be rejected for the reason that the perusal of the photographs would disclose that the culvert is being put up and the lorries carrying minerals are passing through the said road.

11. This Court has also taking into consideration the submission made by the learned counsel for the 4th respondent, on instructions, that while plying lorries, steps are also been taken to ensure compliance of the conditions of licence and that least inconvenience is caused to the residents of the locality. Any infraction of the conditions is noted, it is always open to the 1st respondent to take appropriate action. The 1st respondent or it's subordinate officials are also directed to cause periodical and surprise inspection as to whether the plying of lorries carrying minerals are operated strictly in accordance with license and if any nuisance is caused to the residents of the locality and if it is so, they are always entitled to take action in accordance with law after putting the 4th respondent on notice.

12. The 4th respondent / commercial entity is also having the responsibilities to strictly adhere to the relevant norms and the conditions of license and ensure that least inconvenience is caused to the residents of the locality.

13. The writ petition stands disposed of with the above observation. However there shall be no order as to costs. Consequently connected miscellaneous petition is closed.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

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To

1.The District Collector,
Ariyalur District.

2.The Superintendent of Police,
Ariyalur District.

3.The District Revenue Officer,
Ariyalur.

+1 CC to M/s. A.L. Gandhimathi, Advocate sr 77693.

+1 CC to Govt. Pleader sr 78122.

WP.No.19737 of 2018

RR(CO)
SP(23/10/2019)