

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.11.2019

CORAM:

THE HON'BLE MR. JUSTICE M.M.SUNDRESH
and
THE HON'BLE MR. JUSTICE RMT. TEEKAA RAMAN

W.P.No.32297 of 2019

R.Jothikrishnan

... Petitioner

vs.

1. State of Tamil Nadu,
represented by its Secretary to Government,
Highways and Minor Ports Department,
Fort St. George, Chennai 600 009.
2. The District Collector,
Chennai District,
Chennai.
3. The Special Tahsildar,
Aminjikarai Division,
Chennai District,
Chennai 600 029.
4. The Divisional Engineer (Highways),
Chennai Metropolitan City Development Project,
Division IV, Chennai 600 016.
5. The Divisional Engineer (Highways),
Construction and Maintenance,
Chennai City Major Roads SH-2,
Chennai 600 015.
6. The Assistant Divisional Engineer,
State Highways Construction and Maintenance,
Highway Roads Sub-Division,
Chennai City Major Roads, SH-2,
Chennai 600 015.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking to issue a writ of Certiorarified mandamus, to call for the records of the 6th Respondent impugned communication bearing Notice No.32/Koyambedu/187/2019/e.Va.tho.a, dated 14.10.2019 purported to have been issued under the provisions of Tamil Nadu State Highways Act, 2001, and its Rules and quash the same and to direct the Respondents Nos.3 to 6 or by any Competent Authority to consider the representations of the Petitioner dated 22.10.2019, 05.11.2019 and 06.11.2019 and to dispose of the same in accordance with law.

For Petitioner : Mr.D.Veerasekharan

For Respondents : Mr.P.S.Shivashanmugasundaram,
Special Government Pleader

O R D E R

(Order of the Court made by M.M.SUNDRESH,J.)

Petitioner, claiming to be the owner of the property in Block No.43 in T.S.No.27, has come forward with this Writ Petition, challenging the notice dated 14.10.2019, issued by the 6th Respondent.

2. Learned counsel for the Petitioner submitted that the impugned order cannot be sustained in the eye of law, without following the procedures contemplated under Section 28(2) and 29 (1) of the Tamil Nadu State Highways Act, 2001. Reliance has been placed by the learned counsel for the Petitioner on the Division Bench decision of this Court dated 04.03.2016 in W.P.Nos.8172 to 8176 of 2016, in the case of M.A.Fahira Parveen vs. Assistant Divisional Engineer (Highways), Chennai.

3. Learned Special Government Pleader appearing for the 6th Respondent submitted that the impugned order is only a notice. The Petitioner has also given a reply. Appropriate orders will be passed after considering the aforesaid reply given by the Petitioner. Therefore, the Writ Petition will have to be dismissed as pre-mature.

4. The provisions quoted in the impugned order clearly mandate a pre-hearing before passing final orders. Therefore, we are inclined to hold that the impugned order is only a show cause notice. The Petitioner has also given his reply. In such view of the matter, we direct the 6th Respondent to pass

appropriate orders on the Petitioner's reply, within a period of four weeks from the date of receipt of a copy of this order.

5. Needless it is to state that, till the passing of final order, no coercive steps shall be taken against the Petitioner. The Petitioner is also at liberty to produce further documents to the 6th Respondent, within a period of one week.

This Writ Petition is disposed of with the above direction. No costs. Consequently, connected W.M.P.Nos.32590 and 32581 of 2019 are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

(aeb)

To:

1. The Secretary to Government,
Government of Tamil Nadu, Highways and Minor Ports
Department, Fort St. George, Chennai 600 009.
2. The District Collector, Chennai District, Chennai.
3. The Special Tahsildar, Aminjikarai Division,
Chennai District, Chennai 600 029.
4. The Divisional Engineer (Highways),
Chennai Metropolitan City Development Project,
Division IV, Chennai 600 016.
5. The Divisional Engineer (Highways),
Construction and Maintenance,
Chennai City Major Roads SH-2, Chennai 600 015.
6. The Assistant Divisional Engineer,
State Highways Construction and Maintenance,
Highway Roads Sub-Division, Chennai City Major Roads,
SH-2, Chennai 600 015.

+1cc to Government Pleader SR.NO. 96035

W.P.No.32297 of 2019

sj(co)
nr 18/12/2019