

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2019

CORAM:

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

W.P.No.25861 of 2018

R.Gomathi Shankar

.. Petitioner

Vs.

1.The Assistant Engineer,
Public Works Department Officer,
Public Works Department,
Dharapuram.

2.The District Collector,
Collector Office,
Thiruppur.

3.The Municipal Commissioner,
Municipal Office, Dharapuram.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the respondents 1 to 3 to replace the Iron Gate before the Main Hydro Power Station which is missing and to take appropriate action to prevent the mixing of exhaust water which is released from the unapproved layout formed in the wet lands called "Cibi Garden" where more than fifty families are residing in unauthorized constructions with the substrates of Main Hydro Power Station.

For Petitioner : Ms.H.Mubena Almas
for M/s.Kanagambujam and Associates

For R1 and R2 : Mr.Akhil Akbarali
Government Advocate

For R3 : Mr.P.Srinivas
Standing Counsel for Municipalities

O R D E R

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

Claiming himself to be a public interest litigant, petitioner has sought for a Mandamus, directing the respondents 1 to 3, to replace Iron Gate before the Main Hydro Power Station, which is missing and to take appropriate action, to prevent the mixing of exhaust water, which is released from the unapproved layout formed in the wet lands called as "Cibi Garden", where more than fifty families are residing in unauthorized constructions, with the substrates of Main Hydro Power Station.

2. Supporting the prayer sought for, it is the contention of the petitioner that, on the way to the river there is an unapproved layout formed in the wet lands called as "Cibi Garden", where unauthorized constructions have been made and more than fifty families residing there, and the water let out from these houses pass through the substrates of the field and mixes directly in the river which is the basic water source for more than fifty thousand families residing in Dharapuram Taluk. By drinking this contaminated water, people suffer from different infectious diseases and mysterious fever.

3. Petitioner has further contended that the Main Hydro Power Station is situated on the way to the unapproved layout "Cibi Garden". On this way, there are underground pipes laid by Public Works Department for the supply of water to the Public of Dharapuram Municipality. Since there are residences in the unapproved layout, Heavy Vehicles cross by this way due to which the pipes land and the way often get damaged and water supply to the public is affected.

4. Therefore, petitioner has made a representation dated 18.07.2018, to the Public Works Department Officer, Public Works Department, Dharapuram, to take appropriate action to replace the missing Iron Gate and to prevent the mixing of exhaust water let out from the residences of unapproved layout "Cibi Garden" with the Main Hydro Power Station. Since, no action was taken by the respondents, she has filed the instant writ petition for the prayer stated supra.

5. On 03.10.2018, this Court issued notice to the respondents.

6. Responding to the notice, Municipal Commissioner, Dharapuram Municipality, third respondent herein, has filed a counter affidavit wherein he has denied the above contentions of the petitioner. Relevant paragraph Nos.4 to 7, are as follows:-

"4. It is submitted that the Water Supply Head Works in question is vested with this respondent and the same would use for the supply of drinking water to the Dharapuram Town.

5. The claim of the petitioner to put up or replace a missing gate in the road leading to the same is not possible to be done for the reason that the road leading to the Water Pumping Station is a Government Poramboke road and not a private road leading to the Pumping Station alone.

6. Further it is submitted that the 'Cibi Garden' is a layout and it is falling under the Village Panchayat Limits of Koundachipudur Village Panchayat and the same is not come within the jurisdiction of the respondents.

7. The petitioner ought to implead the concerned Village Panchayat for any action to be taken, regarding the grievances expressed by the petitioner. It is further submitted that the Water Works are for protected Drinking Water from the source to the Town of Dharapuram and there is no habitation near the said source to cause any contamination by means of letting out 'exhaust' water. If at the petitioner is meaning to say sewage water, the said areas are not near the Water Pumping Station and the same. Action if any has to be taken only by the Panchayat concerned."

7. Taking note of the answer in the year 2013, to query No.7, furnished by Public Information Officer, to an application, dated 07.03.2013 that having regard to the safety, in front of the pump station, a gate would be put up, we directed Mr.P.Srinivas, learned Standing Counsel for Municipality, to ascertain as to whether Dharapuram Municipality, would put up a gate in front of the pump station as informed by the Public Information Officer. Hence, we passed over the matter.

8. Reverting Mr.P.Srinivas, learned Standing Counsel for Municipality/3rd respondent herein, submitted that there is already a compound wall with a gate and that sufficient safeguard has been made to the Pump Station.

9. Placing on record the above submission of the learned counsel for the Municipalities, and the averments in the counter affidavit, there is no need to issue a Mandamus, to consider the reliefs stated supra. Hence, instant writ petition is dismissed. No Costs.

dm

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1.The Assistant Engineer,
Public Works Department Officer,
Public Works Department,
Dharapuram.

2.The District Collector,
Collector Office,
Thiruppur.

3.The Municipal Commissioner,
Municipal Office, Dharapuram.

+1cc to Mr.P.Srinivas, Advocate, SR.No. 15980
+1cc to the Govt.Pleader, Vide Sr.No.15761

W.P.No.25861 of 2018

SS (CO)
Kak(09/04/2019)

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