



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 29.04.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**
W.P. (MD) No.8421 of 2019

V. Annathurai

... Petitioner

Vs

1. The Secretary to Government,
Highways and Minor Ports Department,
Fort. St. George,
Chennai 600 009.
2. The Director General,
Highways Department,
Integrated Chief Engineers Office,
H R S Campus, 76, Sardar Patel Road,
Guindy, Chennai 600 025.
3. The Chief Engineer (C & M),
Highways Department,
Integrated Chief Engineers Office,
H R S Campus, 76, Sardar Patel Road,
Guindy, Chennai 600 025.
4. The Superintending Engineer,
Highways Department,
Alagarkovil Road, Bharathi Ula Street,
Near Lotus Tank, Madurai 625 002.
5. The Divisional engineer,
Highways Department (C & M),
Sivagangai,
Sivagangai District.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, directing the respondents herein more particularly the 5th respondent herein to disburse the amount of Rs.20.00 lakhs being the total amount payable on completion of the allotted works pertaining urgent repairs to V Pudur -Palakurichi Road km 0/0-9/4 UR to S.V.Mangalam - Melapati Road km 0/0-9/0 UR to Kerukpai - Kandavarayanpatti Road km 0/0-7/4, Tirupathur Sub Division, Sivagangai District and Rs.40,000/- being the refund of EMD amount deposited by the petitioner within the time stipulated by this Court.

For Petitioner : Mr.P.Mahendran

For Respondents : Mr.M.Karuppasamy
Government Advocate

**ORDER**

Heard the learned counsel on either side.

2. The writ petitioner was issued with a work order dated 21.02.2011 to carry out certain earth works relating to the petition mentioned road works. The petitioner's grievance is that even though he has completed that work, he has not been paid. Therefore, the writ petition came to be filed.

3. When the matter was taken up for hearing, the learned Government Advocate appearing for the respondents pointed out that the Divisional Engineer who was in charge of the department during the relevant time had not passed any order for disbursing the amount to the petitioner.

4. This Court wanted to know whether it is true that an agreement was entered between the petitioner and the department and if the work order was actually issued. The answer is in the affirmative. This Court posed a further question as to whether the petitioner was issued with any notice indicating non-compliance of work on his part. It is fairly replied by the respondent that there is no adverse communication against the petitioner. It is also seen that the official subordinates of the fifth respondent has made an endorsement in the relevant M book indicating check measurement. The only impediment is the non-passing of the order by the fifth respondent. Other than this there is no impediment.

5. The authority also filed a detailed counter affidavit.

6. After a careful perusal of the averments in the counter affidavit and also the materials on record, this Court comes to the conclusion that the petitioner has actually done the work in question and that the authorities have not made the payment.

7. The petitioner's counsel on instructions submitted that the petitioner will not claim interest for the belated payment. Recording the said submission, the respondents are directed to quantify the amount payable to the petitioner based on the value of work entrusted to by the petitioner and disburse the same within a period of eight weeks from the date of receipt of a copy of this order.

8. At this stage, the learned Government Advocate appearing for the respondents pointed out that as per the agreement, in the event there being a dispute the contractor will have to move the Civil Court when the value of work above two lakhs. But in this case, there is actually no dispute, therefore the petitioner is justified in invoking the writ jurisdiction. It is also seen that almost seven years have passed after the completion of the work by the petitioner



and therefore, the petitioner is not in a position to move the Civil Court also. That is why in the interest of justice, relief is granted under Article 226 of the Constitution of India.

9. The writ petition is allowed accordingly. No costs.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

To:

1. The Secretary to Government,
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5. The Divisional engineer,
Highways Department (C & M),
Sivagangai, Sivagangai District.

+2cc to Mr. P. Mahendran, Advocate, SR.No. 63763

+1cc to M/s. Special Government Pleader, SR.No. 64939

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IAS

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