



WEB COPY

WA(MD)No.978 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2019

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE R.THARANI

W.A(MD)No.978 of 2019

and

C.M.P(MD)No.8799 of 2019

Madurai Corporation Sanitary Inspectors
and Sanitary Officers Welfare Association,
Poor Home, Dr.Thangaraj Salai,
Madurai - 20,
through its President,
S.Murugan

... Appellant/Petitioner
Vs.

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George, Chennai.

2.The Commissioner for Municipal Administration,
Chepauk, Chennai.

3.The Commissioner,
Madurai Municipal Corporation,
Thallakulam, Madurai.

... Respondents/Respondent

Prayer : Appeal filed under Clause 15 of the Letters Patent, against the order dated 06.06.2019 made in W.P(MD)No.12829 of 2019.

Prayer in WP(MD). 12829/ 2019 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of Certiorarified Mandamus call for the records of the impugned order in MaNi2/001933/2017 dated 03.07.2017 issued by the 3rd respondent and quash the same as illegal and consequently direct the 3rd respondent to relieve the members of the petitioner from the works of conservancy and solid waste management.

For Appellant : Mr.C.Arul Vadivel Alias Sekar

For Respondents : Mr.M.Murugan
Government Advocate for R.1 & R.2
Mr.R.Murali for R.3



JUDGMENT

(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**)

Heard Mr.C.Arul Vadivel Alias Sekar, learned Counsel for the appellant, Mr.M.Murugan, learned Government Advocate accepting notice on behalf of the respondents 1 and 2 and Mr.R.Murali, learned Counsel accepting notice on behalf of the third respondent.

2. The appellant is the Association consisting of Sanitary Inspectors and Sanitary Officers working in Madurai City Municipal Corporation and they filed a writ petition for issuance of a writ of Certiorarified Mandamus to quash the Office order passed by the third respondent - Commissioner, Madurai Municipal Corporation, Madurai, dated 03.07.2017. The said order came to be passed on a representation given by the appellant which was directed to be disposed of by this Court in W.P(MD)No.5276 of 2009 dated 15.11.2016. The sum and substance of the grievance expressed by the members of the appellant Association is that the Government by G.O.Ms.No.241, Municipal Administration and Water Supply (Elections) Department, dated 01.10.1996 had made certain changes with regard to the work to be assigned to the Sanitary Inspectors. This was due to the fact that 72 posts of Sanitary Inspectors were created and allotted to Engineering Wing of the Corporation and therefore, it is submitted that G.O.Ms.No.241, Municipal Administration and Water Supply (Elections) Department, dated 01.10.1996, should be followed in letter and spirit and whatever works which should be entrusted to the Sanitary Inspectors alone, can be entrusted and without following the said Government Order, more particularly, in paragraph 11 of the Annexure - I, the work was extracted from the members of the appellant Association.

3. Furthermore, it is submitted that the Government also took a decision that the number of Sanitary Inspectors shall be 24 and for every 3 wards, there shall be one Sanitary Inspector and the remaining posts should be abolished as and when the incumbent vacates. Therefore, it is submitted that several representations were given by the appellant Association and none of them yielded any result and they have had approached this Court and filed a writ petition, which was disposed of by directing the third respondent Corporation to consider the said representation. The order dated 03.07.2017 passed by the Commissioner, Madurai City Municipal Corporation, pursuant to the direction issued by this Court, has rejected the prayer for the appellant Association and stated that the works assigned to the members of the appellant Association is in consonance with the Office order dated 14.09.2012, which had been passed taking note of the administrative exigencies.

4. When the challenge was made to the said order dated 03.07.2017, the learned Writ Court was of the view that the members



of the appellant Association are in fact dictating terms to the respondent Corporation and a doubt has arisen as to who is the employer and who is the employee and the learned Writ Court after making such observations, has referred to various decisions of the Honourable Supreme Court and issued certain directions to the respondent Corporation in paragraph 30 of the impugned order. Ultimately, the writ petition stood disposed of with the said directions. The sum and substance of the order passed by the learned Writ Court so far as the appellant Association is concerned, no relief was granted to them.

5. Mr.C.Arul Vadivel Alias Sekar, learned Counsel for the appellant submitted that the direction issued in the writ petition is no way related to the relief sought for by the appellant Association and the grievance expressed were never taken into consideration when the learned Writ Court disposed of the writ petition. Further, the learned Counsel has drawn our attention to various clauses in G.O.Ms.No.241, Municipal Administration and Water Supply (Elections) Department, dated 01.10.1996 and the other Government Orders and submitted that the respondent Corporation has not followed the decision taken by the Government in the said Government Orders and heavy work is entrusted to the members of the appellant Association and 72 persons who were appointed as Conservancy Inspectors and allotted to the Engineering Wing, are not doing any sanitary work and they were entrusted with other work and as a result, heavy burden is cast upon the members of the appellant Association.

6. We have heard Mr.R.Murali, learned Counsel for the third respondent Corporation.

7. The order which was impugned in the writ petition, dated 03.07.2017, is an administrative order which refers to a earlier administrative order dated 14.09.2012. By the said order, the Commissioner, Madurai City Municipal Corporation, who is the head of the third respondent Corporation has taken a decision for allocation of work to various employees and officers of the third respondent Corporation.

8. In our considered view, it would not be appropriate for this Court to interfere with the internal administration of the third respondent Corporation. However, the case of the appellant Association is pitched upon G.O.Ms.No.241, Municipal Administration and Water Supply (Elections) Department, dated 01.10.1996. If there is a Government Order stipulating certain duties and responsibilities, it should be the endeavour of the third respondent Corporation to adhere to the same. However, we cannot issue any positive direction in this regard, because administrative decisions to be taken by the Head of the Department bearing in mind the welfare of the public who fall within the third respondent Corporation and therefore, we cannot be called upon to interfere



with the order dated 03.07.2017 nor issue any direction as to how the affairs of the third respondent Corporation should be managed.

9. However, we are concerned with one fact that the number of Sanitary Inspectors has been frozen to 24 posts in G.O.(Elec.) No.139, Municipal Administration and Water Supply (Elec.) Department, dated 27.05.1997. In stopping with that, the Government has stated that as and when the incumbent working in the said 24 posts vacates, the post will be abolished. The said Government Order was passed in the year 1997, but, as on date, the jurisdiction of the Madurai City Municipal Corporation has increased and we are informed that there are more than 100 wards falling within the jurisdiction of the third respondent Corporation and when such is the situation, the number of posts at different levels requires to be increased. The third respondent Corporation should take a call on this issue and address the Government for appropriate permission not only to increase the staff at the lower level but also at a higher level, viz., Junior Engineer, Assistant Engineer, Executive Engineer, etc., so that, the affairs of the third respondent Corporation are properly managed. Thus, the Government should take note of the subsequent events, enlargement of the area of the Corporation, type of development which has taken place, etc., and the population which is in the jurisdiction of the third respondent Corporation and take appropriate decision in the matter. In this regard, we direct the third respondent - the Commissioner, Madurai City Municipal Corporation to undertake a Staff Rationalisation exercise and examine the need for the post and whatever the additional posts require, appropriate decision be taken with the call of the Government and such new posts be created for efficient administration of the affairs of the third respondent Corporation. The third respondent - the Commissioner, Madurai City Municipal Corporation is directed to take such a decision not only at the level of Sanitary Inspectors but also at different levels, so that, efficiency improves. With regard to this, the prayer sought for by the appellant Association can be moulded and the above relief has been granted in this appeal.

10. Now, we move on to consider the directions issued by the learned Single Bench at paragraph 30 of the impugned order. Some of the directions which have been issued are appropriate in the sense and it will improve the administration of the affairs of the third respondent Corporation. However, we are proposed to modify and fine tune the directions in the following manner. Thus, the paragraph 30 of the impugned order shall be substituted as follows:

(i) The third respondent - the Commissioner, Madurai City Municipal Corporation is directed to strengthen the Vigilance Cell of the Madurai Corporation and issue necessary directions to all officers to the said effect;

(ii) The third respondent Corporation shall give a wide publicity about the Vigilance mechanism available and install



C.C.T.Vs., at vantage points, so that, there is absolute transparency in the affairs of the Corporation;

(iii) Vigilance Cell shall be under the exclusive control of the Commissioner, Madurai City Municipal Corporation and all complaints which are received by the Vigilance Cell shall be dealt with by the Commissioner or by any other Officer specifically nominated by the Commissioner in that regard;

(iv) The third respondent Corporation shall fix display boards at vantage points in the various offices of Madurai Corporation exhibiting the message that "Offering bribe is illegal". In fact, the phraseology which is being adopted by the Government to be adopted by the third respondent Corporation;

(v) The Commissioner, Madurai City Municipal Corporation, is directed to constitute a Special Team to inspect on-going constructions and they can be proceeded with two wheelers, so that, they can efficiently move around the area and immediately identify any illegal constructions or deviated constructions without waiting for the entire building to be completed; and

(vi) We are sure that the Commissioner, Madurai City Municipal Corporation, could hold periodical meetings with his Officers and we leave it to the best decision of the Commissioner as to when such meetings have to be conducted and only we make an observation that the meeting will definitely go a long way to sensitise his Officers about their onerous responsibility.

11. With the above directions, this writ appeal stands dismissed. No costs. Consequently, the connected civil miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(Writs)

// True Copy //

Sub Assistant Registrar(CS)

rsb

To

1.The Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St. George,
Chennai.

2.The Commissioner for Municipal Administration,
Chepauk,
Chennai.



3.The Commissioner,
Madurai Municipal Corporation,
Thallakulam, Madurai.

WEB COPY

+1CC TO MR.C.ARUL VADIVEL @ SEKAR, Advocate Sr. No.89892

+1CC TO MR.R.MURALI, Advocate Sr. No.89914

+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 90243

W.A(MD)No.978 of 2019

and

C.M.P (MD)No.8799 of 2019

26.09.2019

GKG (CO)

TR(10.10.2019) 6P 7C