

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Fifth day of August Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

WP(MD) No.23387 of 2018

G.SELVIN JOEL

... PETITIONER

Vs

1 THE CHIEF SECRETARY,
GOVERNMENT OF TAMILNADU,
FORT.ST.GEORGE, CHENNAI 9.

2 THE CHIEF ENGINEER,
STATE HIGHWAYS DEPARTMENT,
CHEPAUK, CHENNAI

3 THE DIVISIONAL ENGINEER,
HIGHWAYS CONSTRUCTION AND MAINTENANCE,
TIRUNELVELI - 2.

4 THE CHIEF ENGINEER / PERSONAL
TAMIL NADU GENERATION AND DISTRIBUTION
CORPORATION LTD., (TANGEDCO.,)
ANNASALAI, CHENNAI 2

5 THE SUPERINTENDING ENGINEER,
TAMILNADU GENERATION AND DISTRIBUTION
CORPORATION LIMITED, (TANGEDCO),
ANNA BUILDING,
THIYAGARAJA NAGAR,
TIRUNELVELI.

... RESPONDENTS

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to issue a Writ of Mandamus directing the Respondents 1 and 2 take disciplinary action against the 3rd Respondent after inspecting by the vigilance for the improper highway road all Tirunelveli District and consequently directing the Respondents 1 to 3 to maintain the highway road in Tirunelveli city removing all the posts and

transformers erected by Respondents 4 and 5 and giving direction to the Respondents 4 and 5 to lay the cables in underground in all the narrow roads in Tirnelveli District.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.G.SELVIN JOEL, PARTY IN PERSON and of MR.A.K.BASKARA PANDIAN, Special Government Pleader for R1 to R3, and R4 & R5 not appearing either in person or by an advocate, the court made the following order:-

(Order of this Court was made by **M.SATHYANARAYANAN, J**)

It is relevant to extract paragraph No.9 of the order dated 15.07.2019 and it has also been despatched to all the official respondents.

"9.Now, coming to the case on hand, as already pointed out, there are only general averments as to the execution of the work and the ensurement of quality without any supporting or proper materials. Therefore, this Court directs the Principal Secretary, Highways Department, Government of Tamil Nadu as well as the respondents 2 & 3 to come out with a comprehensive affidavit as to the laying and maintenance of all weather road in accordance with the stipulations of the Indian Road Congress; periodical maintenance with regard to the quality of the work undertaken; photographs, videographs to be taken, stage by stage and surprise test checks while the roads are being laid or relaid or maintained."

2.The third respondent in response to the query posed by this Court, vide above cited order has filed his response in the form of an additional affidavit dated 03.08.2019 and it is relevant to extract paragraph Nos.5 and 6 of the same, which read as follows:

"5. I submit that in Highways Department, works are executed through contractors after executing agreement for the value of works to be done in a road. During the execution of work proper quality control measures are being taken at regular periodic intervals. The materials used for the works are tested before starting of the work and at every stage also as per the guide lines given in Indian road congress for the material testing. The proper checking also being done by the concerned officers at every stage (Photographs submitted to the Hon'ble Court). At the time of laying of roads with mechanical means by paver finisher using vibratory roller the required degree of compaction as per IRC standard has also been achieved (Photographs submitted to the Hon'ble Court). During the execution of

work the quality of work is also being checking by the concerned Officers. The surprise test checks are also being done while execution by the Superior Officers.

6.Also routine maintenance of work doing patch work in the road and potholes filing are being attended then and there with the departmental Gangmazdoors regularly (Photographs submitted to the Hon'ble Court). In the unforeseen circumstances the removal wind fallen trees and other emergency work in roads are being carryout by the department. During monsoon period the department staff with Gangmazdoors take at most care to clear the traffic then and there due to any obstruction caused by nature."

3.In the considered opinion of this Court, the third respondent is "clever enough" to file an additional affidavit with vague particulars, despite the fact that the earlier order dated 15.07.2019 has also been communicated to him. The third respondent, despite an opportunity being given to explain his stand, has failed to come out with any material or specific particular, in response to the query posed by this Court. Therefore, this Court is left with no other option, except to direct the Principal Secretary to Government, Highways and Minor Ports Department, Government of Tamil Nadu, Chennai - 600 009, to file a comprehensive affidavit with supporting documents, as to the following particulars:

1.When new roads are laid, the standard / norms that are put in place?

2.Whether the standard / norms are in accordance with the guidelines / stipulations of Indian Road Congress?

3.Whether the roads laid by the State Highways Department are all weather roads?

4.When the roads are laid or relaid, whether any supervisory mechanism is put in place and if so, the details;

5.If defects, or lethargic attitude on the part of concerned contractors are noted, the details of the remedial action, which may include, criminal and civil action taken against the said contractors as well as against the supervisory officials; and

6.If the roads are relaid, whether milling is done or not and if the answer is in negative, the reasons for not doing so.

4.The first respondent, apart from furnishing the above said particulars, is also at liberty to submit other particulars, which are within his knowledge. The comprehensive affidavit with

supporting documents, answering all the above queries shall be filed before this Court positively by 21.08.2019.

5.Call on **21.08.2019.**

sd/-
05/08/2019

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE CHIEF SECRETARY,
GOVERNMENT OF TAMILNADU,
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- 2 THE CHIEF ENGINEER,
STATE HIGHWAYS DEPARTMENT,
CHEPAUK, CHENNAI
- 3 THE DIVISIONAL ENGINEER,
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ANNA BUILDING,
THIYAGARAJA NAGAR,
TIRUNELVELI.

COPY TO:

THE PRINCIPAL SECRETARY TO GOVERNMENT,
HIGHWAYS AND MINOR PORTS DEPARTMENT,
GOVERNMENT OF TAMILNADU,
CHENNAI-600 009.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.13036

ORDER IN
WP(MD) No.23387 of 2018
Date :05/08/2019

MS/VR/SAR-1/09.08.2019/4P.8C

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