



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2019

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THE HON'BLE MR.JUSTICE M.GOVINDARAJ

W.P.(MD)No.24982 of 2019

and

WMP(MD)No.21560 of 2019

N.Udayakumar

... Petitioner

Vs.

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Assistant Director (Panchayat),
Thoothukudi District,
Thoothukudi.

3.The Block Development Officer (Village Panchayat)/
Special Officer,
Vilathikulam Panchayat Union,
Vilathikulam,
Thoothukudi District.

... Respondents

Prayer: Writ Petition filed under Article 226 of Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records on the file of the 3rd respondent in connection with the impugned order of cancellation of the work order issued in his proceedings in Thi.2/423/2017 dated 05.11.2019 (dispatched on 15.11.2019 and received on 18.11.2019) and quash the same and consequently direct the 3rd respondent to extend the time period based on the petitioner's representations dated 12.09.2019 and 4.11.2019 so as to enable him to execute the work order.

For Petitioner : Mr.S.Wilson
For Respondents : Mr.M.Rajarajan
Government Advocate

ORDER

This writ petition has been filed challenging the order of the third respondent in connection with cancellation of the work order issued in his proceedings in Thi.2/423/2017 dated 05.11.2019 and for a consequential direction to the third respondent to extend the time period, based on the petitioner's



representations dated 12.09.2019 and 04.11.2019 so as to enable him to execute the work order.

2.Heard Mr.M.Rajarajan, learned Government Advocate appearing for the respondents. By consent, this writ petition is disposed of at the admission stage itself.

3.The petitioner was awarded with a tender to remove karuvel trees from Ayansengalpadai Panchayat kanmai, Vilathikulam on 10.06.2019. After interference of this Court, a work order was issued on 28.08.2019. By that time, monsoon season started and the kanmai was filled up with water. The petitioner could not execute the work due to water stagnation. Hence, he made representations for extension of time on 12.09.2019, 20.09.2019 and 04.11.2019 to the respondents. But, contrary to this request, the present impugned order dated 05.11.2019 came to be passed. Aggrieved over the same, the petitioner is before this Court.

4.According to the petitioner, he was ready to sign the agreement from 13.06.2019 onwards. But the third respondent failed to sign the agreement and issue work order. After interference of this Court, work order was issued and therefore, the reason stated in the impugned order is *ex facie* illegal and it is only to achieve the collateral object. Therefore, it should be quashed.

5.I have perused the materials placed before this Court.

6.A reading of the impugned order reveals that only because the petitioner failed to execute the agreement, the work order was cancelled. But, the fact remains that the petitioner has produced an agreement on 13.06.2019 and also approached this Court for execution of the agreement for issuance of work order. After interference of the Court, work order was issued on 28.08.2019. In that event, the case of the respondents that the petitioner has failed to execute the agreement within 10 days cannot be correct and therefore, the impugned order passed by the third respondent is not sustainable. Even though the petitioner has submitted his representations dated 12.09.2019, 20.09.2019 and 04.11.2019, there is no reference in the impugned order as to the receipt of those representations and the decision taken thereon. Even, there is no reference as to issuance of notice to the petitioner, calling upon him to execute the agreement. Therefore, the impugned order stands vitiated for non issuance of notice and violation of principles of natural justice. Hence, the impugned order passed in Thi.2/423/2017, dated 05.11.2019 is set aside. The respondents are directed to consider the representations of the petitioner dated 12.09.2019, 20.09.2019 and 04.11.2019 and after issuing show cause notice, take appropriate steps within a period of four weeks from the date of receipt of a copy of this order.



7.The writ petition is disposed of with the above direction. No costs. Consequently, WMP(MD)No.21560 of 2019 is closed.

Sd/-

Assistant Registrar (w)

// True Copy //

Sub Assistant Registrar (CS)

mj

To

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Assistant Director (Panchayat),
Thoothukudi District,
Thoothukudi.

3.The Block Development Officer (Village Panchayat)/
Special Officer,
Vilathikulam Panchayat Union,
Vilathikulam,
Thoothukudi District.

+1 CC to M/s.S. WILSON, Advocate (SR-101288[F] dated 26/11/2019)

+1 CC to M/s.SPL GP (SR-101542[F] dated 26/11/2019)

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25.11.2019

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