



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD) No.21917 of 2017

and

W.M.P. (MD) No.18235 of 2017

K.Neelakandan

... Petitioner

Vs.

1. State of Tamil Nadu,
Rep. by the Chief Secretary to Government,
Secretariat, Fort St.George,
Chennai - 600 009.
2. The State of Tamil Nadu,
Rep. by its Secretary to Government,
Highways Department, Secretariat,
Fort St. George, Chennai - 600 009.
3. The Chief Engineer,
Highways Department,
Chepauk, Chennai - 600 005.
4. The District Collector,
Thanjavur District, Thanjavur.
5. The Chief Engineer,
Public Works Department, Thanjavur.
6. The Director,
Directorate of Vigilance & Anti-Corruption,
No.293, M.K.N.Road, Alandur,
Chennai - 600 016.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, directing the respondents to consider the representation of the petitioner dated 18.11.2017 and to reconstruct, restructure and reinforce the over bridge constructed at Santhapillai Railway Gate, Thanjavur, in accordance with technical parameters without any deviation and to avail Structural Stability Certificate from a competent body to be appointed by this Court, before letting the over bridge for usage of general public for movement of vehicles.

For Petitioner

: Mr.A.Arun Prasad

For Respondents

: Mr.A.K.Baskarapandian

Special Government Pleader

**ORDER**

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

WEB COPY This Court, in continuation and in conjuncture with the earlier order dated 01.07.2019, is passing the following order.

2. In compliance of the directions passed by this Court in the earlier order dated 01.07.2019, additional counter affidavit dated 11.07.2019 of the respondents 1 to 4 has been filed by one Mr.M.K.Selvan, Chief Engineer, Highways Department, Chepauk, Chennai - 600 005 / third respondent herein and the relevant portion is extracted hereunder:

"6. It is submitted that in compliance of the aforesaid order, this affidavit is filed by answering the queries raised by this Hon'ble Court along with supporting documents:

S.No	Question	Answer
1	Whether the time schedule has been adhered to for construction of Railway Over Bridge and laying of road?	Yes. Agreement dated 17.08.2015 was executed with the Contractor, S.Devendiren and the site was also handed over. The Agreement period was 28 months with Scheduled date of completion as 16.12.2017. Time had been extended to the Contractor from 16.12.2017 to 31.08.2018 vide Na.Ka.No.1041/2017/A1, dated 06.12.2017 & 12.03.2018 of Divisional Engineer (H), N & RR, Thanjavur, due to extension of Land Acquisition proceedings; for connecting Pedestrian subway with Service Road; for finalizing Rain Water Harvesting structures; for improvement of junction works, etc. Date of Completion of ROB 31.08.2017. Date of Completion of Rectification 05.03.2018.



WEB COPY

2

Was there any time and cost over than?

No.

Administrative Sanction (AS) was for Rs.41.00 Crores, vide G.O.Ms.No.272, Highways Department dated 13.11.2007.

Technical Sanction (TS) was for R.42.85 Crores, vide Na.Ka.No.8823/2009/RR1, dated 08.02.2013 of Chief Engineer (Highways) - N & RR.

Revised Administrative Sanction (RAS) was for Rs.52.12 Crores, vide G.O.Ms.No.27, Highways & Minor Ports (HP-2) Department, dated 11.04.2017.

Revised Technical Sanction (RTS) was for Rs.52.12 Crores, vide Na.Ka.No.8823/2009/RR1, dated 20.04.2017 of Chief Engineer (Highways) - N & RR.

Agreement Value was Rs.25.88 Crores vide Agreement dated 17.08.2015 with Contractor, S.Devendiren.

Actual expenditure for main Bridge work was Rs.25.01 Crores.

No cost overrun.

RAS was only for additional cost of Land Acquisitions, Shifting of Utilities, Road Furniture, Railway Land Lease, Service Road & Junction Improvements, etc.



WEB COPY

3	Whether, during the construction of Railway Over Bridge or laying of road, any periodical monitoring or inspection was done by the Railway / concerned department?	Yes. The periodical monitoring had been made by the Railway Department only for the Railway portion. During the execution of Approach Portion, periodical monitoring had been made by the Assistant Engineer, Assistant Divisional Engineer, Divisional Engineer and the Superintending Engineer of N & RR and Quality Control Wing of Highways Department. Totally 855 Quality Control Tests had been conducted for the above works. Test Results had been conducted at Highways Research Station, Regional Lab, Thanjavur for Steel, Concrete, Bituminous Layers.
4	For rectifying the mistake, whether the contractor claimed any extra amount and whether it has been paid?	No. The cracks in the Bituminous Surface and in the Reinforced Earth Wall, had been rectified by the remedial measures advised by experts from IIT, Madras, by grouting works to strengthen the soil. The Contractor has not claimed any extra amount and the Contractor has not been paid. Moreover, the Contractor's 2 ½ % security deposit amount is with the department.
5	Whether any arbitral proceedings are pending?	No arbitral proceeding is pending before any Forum.

3. Mr.R.Imayaraja, Assistant Engineer, Highways Department, on behalf of the deponent / third respondent is personally present before this Court and assured that periodical and qualitative maintenance of the road will be done and it would be an all weather road. He further assured that necessary photographs and videographs would also be taken, stage by stage and preserved as "long disposal case" (L.Dis). The said submission, on instructions, is placed on record.

<https://hcservices.courts.gov.in/hcservices/>

4. This Court has also suggested to the Highways



Department, attached to Public Works Department to undertake similar kind of exercise in respect of all roads of the State Highways, which are being laid or periodically overhauled and the learned Special Government Pleader also undertakes to instruct the officials concerned to do the needful.

WEB COPY

5. In the light of the above developments, this Court is of the view that nothing survives for further adjudication in this writ petition and the same is accordingly, closed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

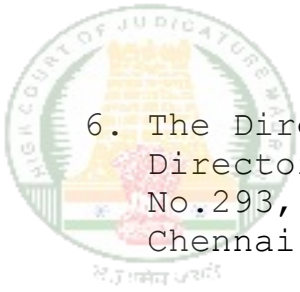
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar (CS)

To

1. The Chief Secretary to Government,
State of Tamil Nadu,
Secretariat,
Fort St. George,
Chennai - 600 009.
2. The Secretary to Government,
State of Tamil Nadu,
Highways Department,
Secretariat, Fort St. George,
Chennai - 600 009.
3. The Chief Engineer,
Highways Department,
Chepauk,
Chennai - 600 005.
4. The District Collector,
Thanjavur District,
Thanjavur.
5. The Chief Engineer,
Public Works Department,



6. The Director,
Directorate of Vigilance & Anti-Corruption,
No.293, M.K.N.Road, Alandur,
Chennai - 600 016.

+1 CC to M/s.A.ARUN PRASAD, Advocate (SR-75338[F] dated
15/07/2019)

+1 CC to Special Government Pleader (SR-75674[F] dated
17/07/2019)

W.P. (MD) No.21917 of 2017
and
W.M.P. (MD) No.18235 of 2017

15.07.2019

AE/ (31.07.2019) 6P 9C