

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2020

CORAM :

The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD

W.P.No.4629 of 2020

Kuthalam P.Kalyanam

... Petitioner

-vs-

1.Union of India,
Rep. by the Secretary to Government,
Ministry of Railways, Rail Bhavan,
No.1, Raisina Road, New Delhi - 110001.

2.Railway Board,
Rep. by the Chairman,
Rail Bhavan, No.1, Raisina Road,
New Delhi - 110001.

3.The General Manager,
Southern Railway,
Chennai - 600003.

4.The Divisional Railway Manager,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, to direct the respondents to consider the various representations of the petitioner including the latest representations of the petitioner dated 02.03.2019 and 17.07.2019 in proper perspective after taking into consideration the interest of the delta farmers and the people in general, to restore the railway link between Mayiladuthurai and Tharangambadi (Tranquebar).

For Petitioner

: Mr.Viduthalai (Senior Counsel)
for Mr.S.Rajendiran

For Respondents : Mr.P.T.Ram Kumar
Standing Counsel for
Railways

JUDGMENT

(Delivered by The Hon'ble Chief Justice)

We have heard learned Senior Counsel appearing for the petitioner and learned standing counsel appearing for the respondents/Union of India/Railways.

2. This petition in the shape of a Public Interest Litigation has come up with a prayer that a Writ of Mandamus be issued directing the respondents to consider the various representations of the petitioner including the latest representations dated 02.03.2019 and 17.07.2019 in proper perspective after taking into consideration the interest of the delta farmers and the public at large for the restoration of the railway link between Mayiladuthurai and Tharangambadi (Tranquebar).

3. The nature of the relief prayed for, may be beyond the purview of the judicial reviewability, but at the same time it has been brought to our notice by the learned standing counsel for the respondents that an identical nature of relief couched in a different form was prayed for in W.P.No.14469 of 2014 that cause to be finally disposed of, vide order dated 06.08.2014 in the following terms :-

"The petition, styled as a Public Interest Litigation, seeks implementation of an alleged policy decision to lay a new railway track of 47 kms. connecting Mayiladuthurai and Tharangampadi, Thirunallar and Karaikal, with the estimated cost of the project in the year 2005 at Rs.114.54 crores, being revised to Rs.175 crores in the year 2010-11, but the line has still not been constructed.

2.Counter affidavit filed by the Deputy Chief Engineer of the concerned department disputes that a policy decision was taken to lay a new railway track for 47 kms. On the other hand, it is submitted that the decision was only to conduct a survey and based on the survey and the estimated cost, the Railway Board has kept the project pending till the work for laying new railway line between Karaikal and Peralam is completed.

3.The aforesaid shows that while the proposed project is not shelved, the same would depend on

the finance availability and priorities in other areas, aspects which come within the domain of administrative functions.

4. In view of the aforesaid, no directions can be issued by this Court to lay down railway lines. The writ petition stands dismissed accordingly. No costs. Consequently, M.P.No.1 of 2014 also stands dismissed."

4. The present writ petition has been preferred almost after six years of the disposal of the earlier writ petition, which practically, is in relation to the same relief, as had been prayed therein. The demand in the previous petition was for laying down the railway line, whereas, the present petition prays for its restoration as it existed during the British period.

5. Learned senior counsel appearing for the petitioner, contends that even if, a writ cannot be issued for laying down of a railway line, yet the consideration of public interest can be directed to be looked into, which is an obvious obligation of the respondents. The decision ultimately to be taken, therefore, might be an administrative one, but the machinery provided for redressal of such grievances and access to justice in such matters, cannot be completely ruled out. He therefore, contends that even though a Court exercising writ jurisdiction, may exercise restraint in not issuing such directions which may be ultimately a matter of public policy or even a legislative act or an executive act solely within the realm of the legislature or the executive, yet a supervening public interest can be brought to the notice of the Government for taking an appropriate decision in the matter.

6. We entirely agree with this proposition of the learned senior counsel and we, therefore, dispose of this writ petition with a liberty to the respondents to consider the said grievance in the background in which, it has been raised and take an appropriate decision in the matter. Accordingly, the Writ Petition stands closed, with the said observations. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Secretary to Government,
Union of India,
Ministry of Railways, Rail Bhavan,
No.1, Raisina Road, New Delhi - 110001.

2.The Chairman,
Railway Board,
Rail Bhavan, No.1, Raisina Road,
New Delhi - 110001.

3.The General Manager,
Southern Railway,
Chennai - 600003.

4.The Divisional Railway Manager,
Southern Railway,
Tiruchirappalli Division,
Tiruchirappalli.

+1cc to Mr.S.Rajendiran, Advocate SR.17270
+1cc to Mr.P.T.Ram kumar, Advocate SR.17491

W.P.No.4629 of 2020

VBA(CO)
CB(26/05/2020)



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