

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 07.10.2020

DELIVERED ON : 09.10.2020

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WP.NOS.14020, 12471, 11009, 11515, 11693, 11742, 11749, 12091,
12098, 12118, 12141, 12159, 12163, 12169, 12172, 12176,
12182, 12403, 12455, 12486, 12489, 12515, 12562, 13148, 13382,
13392, 13399, 13474, 13521, 13523, 13548, 13807, 10303, 10427,
10691, 13865 & 13987 OF 2020

AND

WMP NOS.15426, 15486, 12978, 12980, 13394, 13399, 14072, 14361,
14435, 14443, 14828, 14833, 14863, 14880, 14893, 14901, 14904,
14908, 14913, 14920, 15289, 15366, 16270, 16272, 16644, 16733,
16734, 16735, 16736, 16795, 16809, 16812, 16882, 17613, 17410,
15381, 15397, 15400, 17223 & 17858 OF 2020

- 1 C.MANIMALA ... PETITIONER in WP No.14020 of 2020
- 1 P.ELLAMMAL ... PETITIONER in WP No.12471 of 2020
- 1 G.RAMESH
2 M.KUPPUSAMY
3 S.ALAGURAMAN
4 A.RAJENDRAN
5 K.KARUNANIDHI
6 P.DEVARAJ
7 S.RAJINI SELVAM ... PETITIONER in WP No.11009 of 2020
- 1 A.POONGAVANAM ... PETITIONER in WP No.11515 of 2020
- 1 M.RAMAMURTHY ... PETITIONER in WP No.11693 of 2020
- 1 M.RAMESH ... PETITIONER in WP No.11742 of 2020
- 1 S.MAHESHWARI ... PETITIONER in WP No.11749 of 2020
- 1 A.VIMALA ... PETITIONER in WP No.12091 of 2020
- 1 P.LAKSHMI ... PETITIONER in WP No.12098 of 2020
- 1 T.SENTHAMARAI ... PETITIONER in WP No.12118 of 2020
- 1 S.MAHESH ... PETITIONER in WP No.12141 of 2020

1 G.KAVERI ... PETITIONER in WP No.12159 of 2020
1 M.SANMUGANADAM ... PETITIONER in WP No.12163 of 2020
1 G.GEETHA GOVINDASAMY ... PETITIONER in WP No.12169 of 2020
1 R.SUBRAMANI ... PETITIONER in WP No.12172 of 2020
1 R.MADHAVI ... PETITIONER in WP No.12176 of 2020
1 R.SAKTHI ... PETITIONER in WP No.12182 of 2020
1 A.ANANADAN ... PETITIONER in WP No.12403 of 2020
1 B.UMA ... PETITIONER in WP No.12455 of 2020
1 M.VENNILA ... PETITIONER in WP No.12486 of 2020
1 K.ROJA ... PETITIONER in WP No.12489 of 2020
1 MARUTHAMBAL ... PETITIONER in WP No.12515 of 2020
1 K.PERUMAL ... PETITIONER in WP No.12562 of 2020
1 K.SUBRAMANIAN
2 M.POORANAM
3 M.PONNAZHAGU
4 P.R.NARAYANAN
5 KALAISELVI ... PETITIONER in WP No.13148 of 2020
1 P.NANJUDAPPA ... PETITIONER in WP No.13382 of 2020
1 T.SRINIVASAN ... PETITIONER in WP No.13392 of 2020
1 S.VEENA NANDHEESWARAN ... PETITIONER in WP No.13399 of 2020
1 P.SAROJINI PARASURAMAN ... PETITIONER in WP No.13474 of 2020
1 G.ANDAL ... PETITIONER in WP No.13521 of 2020
1 V.G.PAARI ... PETITIONER in WP No.13523 of 2020
1 NANJUDAPPA ... PETITIONER in WP No.13548 of 2020
1 PACHIAMMAL SIVARAJ ... PETITIONER in WP No.13807 of 2020
1 K.RUKMANI KUMARESAN ... PETITIONER in WP No.10303 of 2020
1 K.G.ANANDAN ... PETITIONER in WP No.10427 of 2020

1 THE SELAI VILLAGE PANCHAYAT
BY ITS PRESIDENT J.GOVARDHANAM
SELAI VILLAGE AND POST
THIRUVALLUR TALUK AND DISTRICT.

... PETITIONER in WP No.10691 of 2020

1 M.KOTTEESHWARAN ... PETITIONER in WP No.13865 of 2020

1 N.SATHYA ... PETITIONER in WP No.13987 of 2020

.vs.

1 THE DIRECTOR RURAL DEVELOPMENT AND
PANCHAYAT RAJ DEPARTMENT,
PANAGAL BUILDING, SAIDAPET,
CHENNAI -15.

... 1st Respondent in WP.Nos.14020,
12471, 11515, 11693, 11742, 11749,
12091, 12098, 12118, 12141, 12159,
12163, 12169, 12172, 12176, 12182,
12403, 12455, 12486, 12489, 12515,
12562, 13382, 13392, 13399, 13474,
13548, 13807, 10303, 10427, 13865 &
13987 of 2020 and 4th Respondent in
WP.No.11009 of 2020

1 THE DISTRICT COLLECTOR
NAMAKKAL DISTRICT.

... 2nd Respondent in WP.Nos.14020 of 2020

1 THE DISTRICT COLLECTOR CUM
DISTRICT RURAL DEVELOPMENT AGENCY,
KRISHNAGIRI DISTRICT,
KRISHNAGIRI.

... 2nd Respondent in WP.Nos.12471,
11515, 11693, 11742, 11749, 12091,
12098, 12118, 12141, 12159, 12163,
12169, 12172, 12176, 12182, 12403,
12455, 12486, 12489, 12562, 13382,
13392, 13399, 13474, 13548, 13865 &
13987 OF 2020

- 1 THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY (DRDA),
KRISHNAGIRI DISTRICT, KRISHNAGIRI.

... 3rd Respondent in WP.Nos.12471,
11515, 11693, 11742, 11749, 12091,
12098, 12118, 12141, 12159, 12163,
12169, 12172, 12176, 12182, 12403,
12455, 12486, 12489, 12562, 13382,
13392, 13399, 13474, 13548, 13865 &
13987 OF 2020

- 1 THE ASSISTANT DIRECTOR OF PANCHAYATS
KRISHNAGIRI

... 4th Respondents in WP.Nos.12471,
11515, 11693, 11742, 11749, 12091,
12098, 12118, 12141, 12159, 12163,
12169, 12172, 12176, 12182, 12403,
12455, 12486, 12489, 12562, 13382,
13392, 13399, 13474, 13548, 13865 &
13987 OF 2020

- 1 THE BLOCK DEVELOPMENT OFFICER,
KAVERIPATTINAM PANCHAYAT UNION,
KAVERIPATTINAM, KRISHNAGIRI DT.

... 5th Respondent in WP.Nos.12471,
11515, 11693, 11742, 11749, 12091,
12098, 12118, 12141, 12159, 12163,
12169, 12172, 12176, 12182, 12403,
12455, 12486, 12489, 12562, and 13865
OF 2020

- 1 GOVERNMENT OF INDIA,
REP. BY ITS SECRETARY,
MINISTRY OF FINANCE DEPARTMENT OF EXPENDITURE,
(FINANCE COMMISSION DIVISION),
11TH BLOCK, 5TH FLOOR, CGO COMPLEX, LODI ROAD,
NEW DELHI-110003.

... 1st Respondent in WP.Nos.11009 & 13148 of 2020

- 1 THE GOVERNMENT OF TAMIL NADU
REP. BY ITS CHIEF SECRETARY,
SECRETARIAT, FORT ST.GEORGE, CHENNAI 600 009.

... 2nd Respondent in WP.Nos.11009 & 13148 of 2020

1 THE SECRETARY,
RURAL DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT,
GOVERNMENT OF TAMIL NADU,
SECRETARIAT, FORT ST.GEORGE,
CHENNAI -9.

... 3rd Respondent in WP.Nos.11009 & 13148 of 2020

2 THE DISTRICT COLLECTOR CUM
DISTRICT RURAL DEVELOPMENT AGENCY
PERAMBALUR DISTRICT, PERAMBALUR.

3 THE PROJECT DIRECTOR,
THE DISTRICT RURAL DEVELOPMENT AGENCY
PERAMBALUR DISTRICT, PERAMBALUR.

4 THE ASSISTANT DIRECTORS OF PANCHAYTS,
PERAMBALUR.

5 THE BLOCK DEVELOPMENT OFFICER,
VEPPANTHATTAI PANCHAYAT UNION, VEPPANTHATTAI,
PERAMBALUR DISTRICT.

... 2 to 5 Respondents in WP.Nos.12515 of 2020

1 THE BLOCK DEVELOPMENT OFFICER,
VEPPANAPALLI PANCHAYAT UNION,
VEPPANAPALLI, KRISHNAGIRI DISTRICT.

... 5th Respondent in WP.Nos.13382, 13392,
13399, 13474, 13548, 13987 of 2020

2 THE DISTRICT COLLECTOR - CUM-
DISTRICT RURAL DEVELOPMENT AGENCY
DHARMAPURI DISTRICT, DHARMAPURI.

3 THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY (DRDA)
DHARMAPURI DISTRICT, DHARMAPURI.

4 THE ASSISTANT DIRECTOR OF PANCHAYATS, DHARMAPURI.

5 THE BLOCK DEVELOPMENT OFFICER,
KARIMANGALAM PANCHAYAT UNION
KARIMANGALAM, DHARMAPURI DISTRICT.

... 2 to 5 Respondents in WP.Nos.13807 of 2020

- 1 THE COLLECTOR AND CHAIRMAN,
DISTRICT RURAL DEVELOPMENT AGENCY,
CUDDALORE, CUDDALORE DT,
TAMIL NADU.

... 1st Respondent in WP.No.13521 of 2020

- 2 THIRU F.ADAM, NO.16/29/B10
VIRUDACHALAM MAIN RD,
ADIVARAGANATHAM, BHUVANAGIRI,
CUDDALORE DT, TAMIL NADU.

... 2nd Respondent in WP.No.13521 of 2020

2. SANTHOSH ENTERPRISES,
NO.62/4, SANKARA NAIDI ST,
THIRUPAPULIYUR, CUDDALORE,
CUDDALORE DT, TAMIL NADU.

... 2nd Respondent in WP.No.13523 of 2020

- 1 THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY,
THIRUVALLUR DISTRICT, THIRUVALLUR.

- 2 THE INSPECTOR OF PANCHAYATS
AND DISTRICT COLLECTOR,
THIRUVALLUR DISTRICT, THIRUVALLUR.

- 3 THE GOVERNMENT OF TAMILNADU,
BY ITS PRINCIPAL SECRETARY,
RURAL DEVELOPMENT AND PANCHAYAT RAJ DEPARTMENT,
FORT ST.GEORGE CHENNAI - 600 009.

... Respondents in WP.No.10691 of 2020

- 2 THE DISTRICT COLLECTOR CUM
DISTRICT RURAL DEVELOPMENT AGENCY
TIRUVARUR DISTRICT, TIRUVARUR.

- 3 THE PROJECT DIRECTOR,
DISTRICT RURAL DEVELOPMENT AGENCY (DRDA),
TIRUVARUR DISTRICT, TIRUVARUR.

- 4 ASSISTANT DIRECTOR OF PANCHAYATS,
TIRUVARUR.

... Respondents 2 to 4th in WP.Nos.10303
& 10427 of 2020

- 5 BLOCK DEVELOPMENT OFFICER,
MANNARGUDI PANCHAYAT UNION,
MANNARGUDI, TIRUVARUR DISTRICT.

... 5th Respondent in WP.No.10303 of 2020

- 5 BLOCK DEVELOPMENT OFFICER,
KOTTUR PANCHAYAT UNION,
KOTTUR, TIRUVARUR DISTRICT.

... 5th Respondent in WP.No.10427 of 2020

- 4 THE DISTRICT COLLECTOR CUM DISTRICT
RURAL DEVELOPMENT AGENCY,
SIVAGANGA DISTRICT, SIVAGANGA.
- 5 THE PROJECT DIRECTOR
DISTRICT RURAL DEVELOPMENT AGENCY (DRDA)
SIVAGANGA DISTRICT, SIVAGANGA.
- 6 ASST. DIRECTOR OF PANCHAYATS
SIVAGANGA.
- 7 BLOCK DEVELOPMENT OFFICER
KANNANGUDI PANCHAYAT UNION,
KANNANGUDI, SIVAGANGA DISTRICT.

... 4th To 7th Respondents in WP.Nos.13148 of 2020

Prayer :-

WP.No.14020 of 2020:-

Writ petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus forbearing the 1st and 2nd respondents dated 18.08.2020 in Lr.No.16909/2020/TU1 from processing, conducting or finalizing any tenders in any form relating to any works mentioned in the said letter.

WP No.12471 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Sundakuppam Village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed

by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the panchayat.

WP No.11009 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration Declaring the decision taken by the respondents 2 to 4 to utilize the available funds from and out of Fourteenth Financial commission (FFC) to carry out any works within the petitioners respective Village Panchayats through the District Collectors, as the Tender Accepting Authority and the District Rural Development Agency as Tender inviting Authority without the resolution of their respective Panchayats, as illegal, null and void and consequentially direct the Respondents 2 to 4 to allow the petitioners respective village panchayats to chose the Works to be done by utilize the available funds from and out of Fourteenth Finacial Commission (FFC) in their village panchayats by passing appropriate resolution.

WP No.11515 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 from Processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road from Periyannankottai Vellakkal to River end Road as Metal (Tar) Road at Karadihalli Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial commission (FFC) without any resolution of the Panchayat

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WP No.11693 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the wrok of Upgradation of a road at Agaram Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the Panchayat

WP No.11742 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a roads called Thatrahalli Sobanur Road to Poikarai Road and Oddappatti to Krishnankottai Road as Metal (Tar) Road at Thatrahalli Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteen Financial Commission (FFC) without any resolution of the Panchayat.

WP No.11749 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Papparappatty Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the Panchayat.

WP No.12091 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Erumamapatty Village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the panchayat.

WP No.12098 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Vadamangalam Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available

funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the panchayat.

WP No.12118 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of up-gradation of a road at Errahalli Village Panchayat, Kaveripattinam panchayat union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC) without any resolution of Panchayat.

WP No.12141 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of up-gradation of a road from Periyannakottai Vellakkal to River and as Metal (Tar) Road at Penneshwaramadam Village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC) without any resolution of Panchayat.

WP No.12159 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of up-gradation of a road at Mittahalli Village Panchayat, Kaveripaatinam panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC) without any resolution of Panchayat and pass

WP No.12163 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of

up-gradation of a road from Periyannakottai Vellakkal to River and as Metal (Tar) Roat at Keelkuppam Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC) without any resolution of Panchayat.

WP No.12169 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of up-gradation of a road at Kottapatty village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC) without any resolution of Panchayat.

WP No.12172 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work or Upgradation of a road at Marichettihalli Village panchayat, Kaveripattinam panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the panchayat.

WP No.12176 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of upgradation of a roads at Baleguli Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the Panchayat.

WP No.12182 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the

Respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of upgradation of a roads at Vilangamudi Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission (FFC) without any resolution of the Panchayat.

WP No.12403 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the Respondents 2 to 5 from processing conducting or finalizing any tender in any form relating to any works including the Work of Upgradation of a road at Chowttahalli village Panchayat kaveripattinam Panchayat Union krishnagiri District as proposed by the 5th Respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission(FFC) without any resolution of the panchayat.

WP No.12455 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of upgradation of a road at Marudheri Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission without any resolution of the panchayat.

WP No.12486 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Damodarahalli Village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission without any resolution of the panchayat.

WP No.12489 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Damodarahalli Village panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission without any resolution of the panchayat.

WP No.12515 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, For Bearing the respondents 2 to 5 from processing, Conducting or finalizing any tender in any form relating to any work including the work of up gradation of roads in pursuance of proceeding in Na.Ka.No. A5/ 2400 /2019 dated 04.08.2020 proposed by the second respondent unilaterally by utilizing the available funds from and out of 14th Finance Commission (FFC) without the resolution of the Panchayat.

WP No.12562 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Avathuvadi Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteen Financial Commission (FFC) without any resolution of the Panchayat.

WP No.13148 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring the decision taken by the Respondent 2 to 4 to utilize the available funds from and out of Fourteenth Financial Commission(FFC), to carry out any works within the petitioners respective Village Panchayats through the Respondents 5 to 7 without the resolution of their respective Panchayats, as illegal, null and void and consequentially direct the Respondents 2 to 7 to allow the petitioners respective Village Panchayats to chose the works to

be done by utilizing the available funds from and out of Fourteen Financial Commission (FFC) in their Village Panchayats by passing appropriate resolution.

WP No.13382 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 herein from processing conducting or finalizing any tenders in any form relating to any works including the work of upgradation of roads in Ipiganapalli Village Panchayat, Veppanapalli Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fiteenth Finance commission (FFC) without any resolution and approval of the village panchayat.

WP No.13392 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 herein from processing, conducting or finalizing any tenders in any form relating to any works including the work of upgradation of roads in Kuriyanapalli village Panchayat, Veppanapalli Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) without any resolution and approval of the village panchayat.

WP No.13399 of 2020:-

Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the Respondents 2 to 5 herein from processing, conducting or finalizing any tenders in any form relating to any works including the work of upgradation of roads in Neralagiri village Panchayat, Veppanapalli Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) without any resolution and approval of the village panchayat.

WP No.13474 of 2020:-

Writ Petition filed under Article 226 of the Constitution of

India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 herein from in any way processing, conducting or finalizing any tenders in any form relating to any works in Veppanapalli Panchayat Union, Krishangiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) and State Finance Commission (SFC) Grant without any resolution and approval of the Veppanapalli Panchayat Union Council.

WP Nos.13521 & 13523 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, call for the records of the 1st respondent pertains to the impugned order bearing reference Lr No.A10/1639/2020 dated 18.08.2020 and 09.09.2020 quash the same.

WP No.13548 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 herein from processing, conducting or finalizing any tenders in any form relating to any works including the work of upgradation of roads in Manavaranpalli Village Panchayat, Veppanapalli Panchayat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) without any resolution and approval of the village panchayat.

WP No.13807 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, Forbearing the respondents 2 to 5 herein from processing conducting or finalizing any tenders in any form relating to any works including the work of upgradation of roads in Nachikuppam Village Panchayat, Veppanapalli Panchat Union, Krishnagiri District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) without any resolution and approval of the Village Panchayat.

WP No.10303 of 2020:-

Writ Petitions filed under Article 226 of the Constitution

of India, praying to issue a Writ of Mandamus, forbearing the respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of upgradation of a road called Palakurichi South Road to Metal (Tar) Road in Palakurichi Village Panchayat, Mannargudi Panchayat Union, Tiruvarur District as proposed by the 5th respondent unilaterally by utilizing the available funds from and out of fourteenth Financial Commission (FFC), without any resolution of the Panchayat.

WP No.10427 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Declaration declaring the decision taken by the Respondents 2 to 5 to utilize the available funds from and out of Fourteen Financial Commission (FFC), to carry out any works within the petitioner's Village Panchayat through the District Collector, as the Tender Accepting Authority and the District Rural Development Agency, as Tender Inviting Authority without the resolution of the Petitioner's Panchayat, as illegal, null and void and consequentially direct the Respondents 2 to 5 to allow the petitioner's Village Panchayat to chose the works to be done by utilizing the available funds from and out of Fourteen Financial Commission(FFC)in the petitioner's Village Panchayat by passing appropriate resolution.

WP No.10691 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, calling for all records relating to the impugned Tender Notification No.3667/2019/A7 dated 29.07.2020 issued by the Project Director, District Rural Development Agency, Thiruvallur District, Thiruvallur, The First Respondent herein, and quash the same, and consequently directing the First Respondent herein to desist from any further transgressing into and depriving of the statutory powers of the Petitioner Village Panchayat.

WP No.13865 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the Respondents 2 to 5 from processing, conducting or finalizing any tender in any form relating to any works including the work of Upgradation of a road at Chellakuttapatty Village Panchayat, Kaveripattinam Panchayat Union, Krishnagiri District as proposed

by the 5th respondent unilaterally by utilizing the available funds from and out of Fourteenth Financial Commission(FFC) without any resolution of the Panchayat.

WP No.13987 of 2020:-

Writ Petitions filed under Article 226 of the Constitution of India, praying to issue a Writ of Mandamus, forbearing the Respondents 2 to 5 herin from processing, conducting or finalizing any tenders in any form relating to any works including the work of Upgradation of roads in Sigaramaganapalli Village Panchayat, Veppanapalli Panchayat Union, Krishnagiri District as proposed by the 5th Respondent unilaterally by utilizing the available funds from and out of Fifteenth Finance Commission (FFC) and State Finance Commission (SFC) grant etc., without any resolution and approval of the Village Panchayat.

For Petitioners
in W.P.No.14020/2020

: Mr.N.R.Elango
Senior Counsel
for Mr.E.Raj Thilak

For Respondents
in W.P.No.14020/2020

: Mr.P.H.Aravind Pandian
Additional Advocate General
Asst. by:
Mr.V.Jayaprakash Narayanan
State Government Pleader

For Petitioners

in W.P.Nos.12471,11515,
11693,11742,11749,12091,
12098, 12118, 12141, 12159,
12163, 12169, 12172,12176,
12182,12403,12455,12486,12489,
12562, 13382,13392,13399,13474,
13521,13523,13548,13807, 10303,
10427,1069113865 & 13987/2020

: Mr.R.Thamaraiselvan
& Mr.D.Baskar

in W.P.No.12515/2020

: Mr.G.Prabhu

in W.P.Nos.13148,10303 &
10427 of 2020

: Mr.R.Neelakandan

In W.P.Nos.11009

: Mr.P.Wilson
Senior Advocate
for M/s.Wilson Associates

in W.P.Nos.13521 & : Mr.P.R.Thiruneelagandan
13523 of 2020

in W.P.No.10691 of 2020 : Mr.J.Thilagaraj
For Respondents

in W.P.Nos.12471,11515, : Mr.P.H.Arvind Pandian
11693,11742,11749,12091, Addl. Advocate General
12098, 12118, 12141, 12159, Asst by:
12163, 12169, 12172,12176, Mr.V.Jayaprakash Narayanan
12182,12403,12455,12486,12489, State Government Pleader
12562, 13382,13392,13399,13474,
13521,13523,13548,13807, 10303,
10427,1069, 13865 & 13987/2020

in W.P.Nos.11009, 13399, 13865 & : Mr.Kumaresh Babu
13987/2020 Addl. Advocate General
Asst By:
Mr.E.Balamurugan
Special Government Pleader

COMMON ORDER

1.These batch of Writ Petitions have been filed by the Presidents of various Panchayats challenging the action of the Respondents in utilizing the funds meant for the Panchayats from and out of the 14th Financial Commission (hereinafter referred to as "FFC") and utilizing the same for carrying out the works and particularly, the work of upgradation of roads in the respective villages falling within the panchayats, without the concurrence of the elected body in the respective panchayats. Apart from the said challenge, the Petitioners have also questioned the calling of tender by the Respondents for carrying on with the upgradation of road work in the respective panchayats.

2. The common grievance of the Petitioners is that the local body elections which were due in October 2016, was not conducted till the year 2019. During the interregnum period, in order to administer the local bodies such as the Corporations, Municipalities, Town Panchayats, District Panchayats, Panchayat Unions and Village Panchayats, Special Officers were appointed in all the local bodies to perform the functions of the respective local bodies. Ultimately, the elections were held in December 2019 and all the office bearers took charge during the first week of January 2020. Thereby, the tenure of the Special

Officer came to an end and the elected body assumed charge. In spite of the same, the Respondents were utilising the funds from and out of the 14th FFC and started calling for tenders to appoint contractors to carry on with the work of upgradation of roads in various panchayats. According to the Petitioners, this was done without the concurrence of the elected body and the elected body was completely side-lined and the Executive was continuing to call for the tenders independently and was also taking hasty steps to commence the work. Aggrieved by the same, the above batch of Writ Petitions have been filed before this Court.

3. The Director of Department Rural Development and Panchayat Raj has filed a common counter affidavit in all the Writ Petitions. The relevant portions in the counter affidavit are extracted hereunder:

"8. The Government of India has earmarked a sum of Rs.1516.12 Crore for 2017-18, Rs.1753.87 crore for 2018-19 and Rs.2369.86 crore for 2019-20 under Fourteenth Finance Commission Basic Grant for Tamil Nadu. While the funds earmarked for the year 2017-2018 and 2018-19 were released to all the Village Panchayats. The funds earmarked for 2019-20 was released only to the Village Panchayats in 27 districts, i.e. an amount of Rs.1820.11 crore, where the local bodies have been constituted.

9. It is submitted that considering the importance of improving the Village Panchayat Roads as indicated earlier it was decided to utilize the funds under 14th Finance Commission for the purpose of improving the Village Panchayat roads in a project mode. Accordingly, during the financial year 2018-19, 1,504 KM length of Village Panchayat roads were taken up for improvement at a cost of Rs.300.33 crore. In continuation of this, 1622 KM length of roads was sanctioned at a cost of Rs.359.83 crore under 14th Finance Commission during 2019-20 using 1st instalment of funds and another 399.33 crore was proposed to be taken up by using 2nd instalment funds under the financial year 2019-20, which is being challenged now. The works taken up by using 1st instalment of funds for the year 2019-20 was tendered at the District Level only and the same procedure was adopted for the 2nd instalment also. In short, considering the

quantum of funds involved the implementation process was conceived as a scheme and directions issued accordingly.

10. It is submitted that, to draw some parallels and precedence, it would be prudent to peruse the following aspects:-

The 12th Finance Commission grants and 13th Finance Commission grants provided specific grants for the Maintenance of Rural roads. Whereas, the 14th Finance Commission grants have built in the maintenance requirements within the overall allocation to the State which is in turn released directly to the panchayats. The warrants for using all available resources effectively for the improvement of rural roads have been well laid out in the opening paras. The latest directions issued vide reference DRD&PR, Lr.No.57779/2019/TU1 dated 17.06.2020 for the improvement of roads under 14th Finance Commission are in line with the same objectives. Further, the Maintenance Grants under 12th Finance Commission and 13th Finance Commission were tendered at the district level with standardised and uniform bidding process. The same approach is being followed. The directions issued by the department are clear and well ordained.

11. It is submitted that the Rural Development and Panchayat Raj department implements numerous development programmes in the rural areas, the department plays a major role in facilitating and supporting the Village Panchayat and other Rural Local bodies to fulfil their basic responsibilities. Section 7 of the Tamil Nadu Transparency in Tenders Act, 1998, provides as follows:-

"The Government or the procuring entity, may, by order, appoint an officer under its control as Tender Inviting Authority for carrying out the functions assigned to it under this Act."

In exercise of the above powers conferred by section 7 of the Tamil Nadu Transparency in Tenders Act, 1998 (Tamil Nadu Act 43 of 1998), the Government of Tamil Nadu had appointed Tender inviting authorities and Tender accepting authorities in the Rural Development and Panchayat Raj Department vide G.O. (Ms) No. 203

RD & PR (PR.I) Dept. Dt.20.12.2007. This order specifies tendering authorities and their powers at various levels for the department as a whole. However, the decision to nominate tendering authorities for a particular scheme is decided based on the scale and size of the project, complexities involved etc. This protocol is followed for all the programmes implemented by the RD&PR department and the same has been followed in the instant case of 14th Central Finance Commission grants also. Hence, there is no malafide intention.

Further, the bidders are to be identified based on two stage evaluation process including Technical and Financial Evaluation. The Bidders capacity are to be assessed based on financial standing, Work experience, assessed bid capacity based on present commitments etc. This begs the question, whether the Village Panchayat have the wherewithal, technical know-how, in-house capacity, man power to carry out these processes. The option of E-tendering is presently not available in the Village Panchayats, nor there infrastructure or capacity to handle such processes. The department after due consideration of all these factors have indicated the Project Director as Tender Inviting Authority and District Collector as Tender Accepting Authority. It is a simple fact that the tender process would be more streamlined if the tendering is done at the District Level as against tendering in numerous Village Panchayats in Tamil Nadu. However, the payment for the bills will be made by the concerned Village Panchayat based on the proceedings of the District Collector. In fact the department is facilitating and supporting for the better execution of the work in Village Panchayat and there is no any hindrance or interference of the powers of elected representatives of the Village Panchayat.

12. It is submitted that the objective of the Government is to provide road connectivity to the rural people and also to ensure that the benefits provided are sustained for longer periods. The department has institutionalized a systematic Quality Control (QC) mechanism which includes the departmental officers at State, District, Sub- division and Block level. To

ensure the uniformity and adherence to e-tendering procedures, tender notice is issued at the District level and the Project Director as Tender Inviting Authority and District Collector as Tender Accepting Authority. This will ensure that these works are monitored properly and implemented as per quality standards. On the other hand, the Village Panchayats with limited resources will find it difficult to ensure the technical requirements indicated above in the implementation of scheme.

13. It is submitted that nothing is denying the fact that the Panchayat Raj Institutions functions as the grass root level democracy. At the same time, the department provides hand holding support to the Panchayat Raj Institutions to perform their duties and realize the objective of grass root level democracy. The Department and the Panchayat Raj Institutions work as parallel verticals supplementing and complementing each other. The objective of Panchayat Raj cannot be met without the functioning of these two verticals. Further, the Government, through the Rural Development department and especially the District Collector, who is the Inspector of Panchayats, has the responsibility of monitoring and streamlining the functions of the Village Panchayats. The action of the District Collectors is in keeping with this.

14. It is submitted that, the Nomination of the Project Director as the Tender Inviting Authority and District Collector as the Tender Accepting Authority is not a violation of any law or usurpation of the powers of the Village Panchayats. This is rather amelioration of the implementation process. The question is whether the bidding process should be more streamlined, standardized, transparent or otherwise. The Government implement various development schemes in the rural areas, the implementing procedures for each case is decided based on various factors. Any interference in these procedures will have a bearing on the implementation of all the programmes. As indicated in the opening paras, there are 1.20 Lakh KM length of Village Panchayat Roads and the Government have provided funds for the improvement of these Village Panchayat Roads under various State and Central

Government Schemes like TNRRIS, NABARD, PMGSY, SCPAR etc. All these programmes are tendered at the District Level and the same procedure is being followed under 14th Finance Commission Grants. When the programmes objectives are similar, why should there be a distinction in the implementation process under 14th Finance Commission Grants. In the present case, if the plea of few Village Panchayat Presidents is upheld, this would set a bad precedence in the scheme implementation process in the State. The department had proposed to invest about Rs.399.33 crores under 14th Finance Commission Grants for the improvement of the Village Panchayat Roads based on the 2nd instalment release under 14th Finance Commission during 2019-20. It is the responsibility of the Department to ensure that this amount is properly spent based on standard and time tested procedures. The conduct of the tenders at the Village Panchayat would dilute the entire bidding process and also the objectives of the Government to improve the rural roads. The orchestrated filing of Writ Petitions is an effort to derail the objective, of the Government and would ultimately deny the intended benefits reaching the Village Panchayat.

15. It is also submitted that 14th Finance Commission funds are being allotted to Village Panchayat and then administrative sanction is to be accorded by the District Collector. It is further submitted that it has been directed to take up the road works in only those panchayats which have sufficient funds of more than Rs.10 lakhs so that the other requirements of the Panchayats are not affected which clearly gives enough leverage for the Village panchayats. It is submitted that there is no restriction in the utilisation of funds towards for other basic requirements i.e. water supply, street lights, sanitation etc. in the village panchayat. It is further submitted that the road works were proposed under 14th Finance Commission funds pertaining to 2017-18, 2018-19, 2019-20 excluding the funds already spent or required for the other Panchayat works.

16. It is submitted that it is not disputed that

consequent to the Election of Ward Members, Village Presidents, Panchayat Union Council, Members, Members of the District Council, the Special Officers post came to be ceased and the Elected Members are functioning as per the Tamil Nadu Panchayat Act, 1994 There is no interference into the functioning of the elected representatives of Panchayat Unions and District Panchayats and Village Panchayats.

17. It is submitted that the in the directions issued through the DRD&PR Letter No. 57779/2019/TU1, Dated: 05.11.2019 and 17.06.2020, detailed guidelines have been issued for the selection of roads, prioritization, preparation of estimates, administrative sanction, tendering and Execution. As already indicated the improvement of comprehensive strategy in a systematic manner, the works identified under the 14th Finance Commission have been done based on such procedures.

18. It is also submitted that the specific intervention in terms of selection of works based on specific criteria and also with regard to the standardized tendering process. The funds allotted for under 14th Finance Commission are used for the respective Village panchayat only and the payment will also be made by the concerned Village Panchayat. Further, the works have been considered in only those Village Panchayats which have enough funds for taking up other works.

19. It is submitted that the petitioners have claimed that they are the only elected person to take the works in Village panchayats. It is submitted that all the three tier Panchayat Raj Functionaries, Members of Legislative Assembly and Members of parliament also provide funds for the implementation of developmental schemes in Village Panchayats. The implementing agencies are decided by the respective District Collectors. This is a similar approach considering the quantum of funds.

20. It is submitted that the Village panchayats do not have sufficient skilled staff to monitor the work and does not have the resources to conduct E-tenders and also follow proper implementation procedures. The intention of the petitioners seems to be to question the tender

process with malafide intentions. It is expected from the Petitioner to join hands with the District Collector /Inspector of Panchayats in the welfare of the people. So many Writ petitions are filed in The Hon'ble High Court of Madras for the same prayer which has lead to delay in commencement of the road works before the ensuing monsoon."

4. Mr.N.R.Elango, learned Senior Counsel appearing on behalf of the Petitioner in W.P.No.14020 of 2020, made the following submissions:

- The 73rd Amendment to The Constitution of India, 1950 (hereinafter referred to as "the Constitution"), through which Panchayats were given a constitutional recognition gave a complete independence in the functioning of the panchayats without any State intervention. By virtue of this amendment, Part IX was introduced into the Constitution containing Articles 243, 243A-243O and it came into effect from 24.04.1993. The powers, authority and responsibilities of the panchayat delineated under Article 243G also provided for independence in implementation of schemes relating to matters listed in the 11th Schedule. Entry 13 in the 11th Schedule deals specifically with roads.
- The debates that took place when the amendment was discussed in the Parliament, shows that the law makers intended to inscribe in the Constitution certain core elements of grassroot democracy to take them beyond the pale of changing political expediency. It is also clear that the Gram Sabha, which was considered to be the foundation of the Panchayati Raj System has been given prominence and therefore, a wide consultation was contemplated in taking decisions in the respective panchayats. The debates also make it clear that adequate financial strength must be given to the panchayats by setting up a Finance Commission every 5 years in order to evolve suitable criteria and make appropriate recommendations to strengthen the financial base of the Panchayati Raj bodies.
- The object behind the 73rd Amendment and the independence and constitutional stature of the local bodies was sought to be explained through the following 2 judgements of the Hon'ble Supreme Court in Village Panchayat, Calangute v. The Additional

Director of Panchayat- II and Ors. reported in (2012) 7 SCC 550 and in Rajendra Shankar Shukla and Ors. v. State of Chhattisgarh and Ors. reported in (2015) 10 SCC 400.

- Once there is an elected body, neither the State Government nor the Executive will have any right to interfere with the functioning of the Panchayat and any such interference will result in violation of the Constitution and it will defeat the very purpose of establishing Panchayati Raj.
- The action taken by the Respondents also violated the provisions of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as "the Act"). Specific reliance was placed on Section 112 of the Act.
- The letter dt. 18.08.2020 issued by the Director of Department Rural Development and Panchayat Raj to all the District Collectors, gave the entire powers to the Executive to invite tenders for carrying on with the road work in the respective panchayats, without any consultation with the elected body and the same is in direct violation of the Constitution and the Act.
- A similar attempt that was made by the Respondents came to be challenged in a batch of writ petitions before the Madurai Bench in W.P.(M.D.) Nos. 8929 etc., of 2020 and it was categorically held that the elected bodies have been completely bypassed and accordingly the attempt made by the Respondents to carry on with the work by calling for a package tender was set aside by this Court. This judgement will also cover the issue involved in the present batch of Writ Petitions.
- The initiation of the work started after the elected body took charge, without any consultations and the same is clear from the communication dt. 05.11.2019 made to the various District Collectors and also G.O.M.S. No.121, dt. 06.07.2020 and the further communication of the Director of Department of Rural Development and Panchayat Raj, dt. 18.08.2020.

5.Mr.P.Wilson, learned Senior Counsel appearing on behalf of the Petitioners in W.P.No.11009 of 2020, apart from adopting the submissions made by Mr.N.R.Elango, also made the following submissions:

- The 14th FFC has specifically given guidelines dt. 08.10.2015 for the release and utilisation of grant and the action taken by the Respondents is in complete violation of these guidelines. The guidelines itself make it clear that the grant-in-aid has to go only to the duly constituted panchayat which has been clearly defined as the "Elected Body" whereas the elected body is completely disregarded and the Executive is proceeding further to independently implement the works. The same is also clear from the communication dt. 05.11.2019 made by the Director of Department of Rural Development and Panchayat Raj to all the District Collectors and also the letter dt. 17.06.2020 again issued by the Director of Department of Rural Development and Panchayat Raj to all the District Collectors.
- The grant is charged from the Consolidated Fund of India under Article 275 of the Constitution and it is only from this grant that the funds are provided by constituting a Finance Commission and therefore, the funds cannot be utilised in violation of the purpose for which the grant is given and the guidelines issued by the Finance Commission.
- The preparation of plans and estimates for works and mode and conditions of contracts is governed by Rules made in exercise of the powers conferred under Section 242(2) of the Act. The Rules limit the grant of sanction with regard to the panchayats only upto a particular financial limit. When it crosses the limit, the competent authority will be the District Collector or the Director of Department of Rural Development and Panchayat Raj. By misusing these Rules, the Respondents are calling for package tenders only with a view to take away the power of sanction from the panchayat. The same method is adopted under the Tamil Nadu Transparency in Tenders Act, 1998 (hereinafter referred to as "the Transparency Act") which also provides for such financial limits when it comes to appointment of Tender Inviting Authority and Tender Accepting Authority.
- The learned Senior Counsel also relied upon Sections 6, 16, 24, 46, 94 and 112 of the Act in order to explain the scope and powers of a panchayat.

6.The learned counsels appearing on behalf of all the other Petitioners broadly adopted the above submissions made by Mr.N.R.Elango and Mr.P.Wilson.

7.Per contra, Mr.P.H.Aravind Pandian, learned Additional Advocate General appearing on behalf of the Respondents made the following submissions:

- There is absolutely no dispute with regard to the constitutional status given to the panchayat and the independence of the working of the panchayat and there cannot be any quarrel with regard to the judgements of the Hon'ble Supreme Court cited by the counsel appearing on behalf of the Petitioners.
- The funds earmarked for the year 2019-20 was at the stage of utilisation of the second instalment and the approval and sanction to carry on with the works were all completed even before the elections and what was left was the implementation part. The funds have also been released to the village panchayats where the local bodies have already been constituted. Therefore, after the contractor is appointed pursuant to calling for tenders, the actual implementation is going to be done only under the supervisions of the elected body and the funds are also going to be released by the panchayat depending upon the completion of the work. Therefore, there is absolutely no interference with the independence of the elected body.
- The Executive and the Panchayat Raj institutions worked as parallel verticals supplementing and complementing each other and the objective of the Panchayati Raj cannot be met without functioning in this manner. That apart, the District Collector and the Director of Department of Rural Development and Panchayat Raj also have the responsibility of monitoring and streamlining the functions of the panchayats. To substantiate this submission, the learned AAG specifically relied upon Section 242 of the Act.
- In all the cases, approval has been granted by the Gram Sabha and only thereafter, the Respondents went ahead in issuing tender for carrying out the road works.
- G.O.M.S. No. 107, dt. 21.09.2017 has been followed in letter and spirit and the guidelines for the implementation of the 14th FFC has been scrupulously followed. Specific reliance was placed on Clauses 11 and 12 of the Guidelines.

- The initiation of the process was started by the Special Officer when there was no elected body and such a power is available to the Special Officer under Section 261 of the Act and the acts of the Special Officer must be construed as the acts of the elected body. To substantiate this submission, reliance was placed upon the judgement of this Court in T.Murugan v. Commissioner, Nagarcoil Municipality reported in 2018 (3) CTC 624 and in Commissioner, Nagercoil Municipality v. D. Chellam and Anr. reported in (2018) 3 MLJ 129.
- The order relied upon by the Petitioners in W.P. (M.D) No. 8929 etc., of 2020 did not deal with the scenario where the initiation had commenced even before the elected body took charge. Therefore, the said judgement cannot be taken to be the law governing the specific stand taken in these batch of Writ Petitions.
- The elected body has not in any way been prevented from performing their functions and there is absolutely no ground to interfere with the tender process initiated by the Respondents to complete the upgradation of roads in the respective panchayats and the elected body should cooperate for the completion of the work and there are absolutely no merits in these Writ Petitions and they are liable to be dismissed.

8. Mr.Kumaresh Babu, learned Additional Advocate General, appearing on behalf of the Respondents in some of the Writ Petitions adopted the arguments of Mr. P.H. Aravind Pandian and further submitted that Section 191 of the Act specifically deals with expenditure from Village Panchayat Fund and Panchayat Union Fund and the purpose for which the same is going to be used was decided by the Special Officer before the elected body took charge and the budgetary allocation to be made was submitted to the Government and therefore, the initiation of the process had started even before the elected body took charge. Therefore, there is absolutely no ground to interfere with the tender process and the clock cannot be put back by disbanding whatever has already been initiated and the same will not be in the interest of the respective panchayats.

9.This Court has carefully considered the submissions made by counsels on either side and materials available on record.

10. The elected body took charge during the first week of January 2020. Before that, the Special Officers were in the helm of affairs and they were performing the work of the elected body. Such a power is traceable under Section 261 of the Act. This is a transitory provision which authorised the Government to appoint Special Officers to exercise the powers and discharge the functions of the Village Panchayats, Panchayat Union, all the District Panchayats, as the case may be, until the elected body assumes charge. By virtue of this provision, the act performed by the Special Officer is construed to be the act of the elected body. There is a similar provision available under Section 375 of the Tamil Nadu District Municipalities Act, 1920. It is in pari materia to Section 261 of the Act. This is also a transitory provision which enabled the appointment of a Special Officer. The Division Bench of this Court had an occasion to deal with the scope of this provision and the findings of the Division Bench will have a lot of relevance in understanding the powers of the Special Officer. The Division Bench judgement in T. Murugan, referred supra held as follows:

"30. The sum and substance of the contention raised by the learned Senior Counsel is that in terms of the Constitutional mandate which can be culled out from a combined reading of Article 243-A to Article 243-W is that, a Municipality shall be a self-government and in such circumstances, a paid Officer of the Government cannot discharge the functions of a Municipality, as he cannot be termed as a self-government. Therefore, it is contended that Section 375(1) empowers the Special Officer to usurp the powers of the self-Government, which is impermissible and works against the Constitutional mandate. In this regard, the definition of Municipal Council as defined under Sections 3(12-C) & 3(12-D) were referred to and Sections 19 & 25 of the Act and Schedule III, which prescribes the Rules regarding the proceedings of the Council. Though, the above is the submission made on behalf of the Petitioners, there is no challenge to the validity of Section 375-B, which has, in fact, been rejected by the Division Bench in the case of R. Suresh v. Principal Secretary to the Government of Tamil Nadu, Municipal Administration & Water Supply (Election) Department, St. George Fort, Chennai and others, dated 5.9.2017.

31. Section 375(1) of the Act reads as follows:

"375. Transitory provision.— (1) Notwithstanding anything contained in this Act, or in any other law for the time being in force, the State Government may, by Notification, if necessary, appoint Special Officers to exercise the powers and discharge the functions of the Municipalities or the Third Grade Municipalities, as the case may be, until the day on which the first meetings of the Municipal Councils are held after ordinary elections to the Municipalities and the Third Grade Municipalities after the date of commencement of the Tamil Nadu District Municipalities (Amendment) Act, 1994 [Tamil Nadu Act, 25 of 1994]."

32. Section 375-B of the Act reads as follows:

"375-B. Appointment of Special Officers.— Notwithstanding anything contained in this Act, on in any other law for the time being in force, the State Government may, by Notification, appoint Special Officers to exercise the powers and discharge the functions of the Municipalities or the Town Panchayats, as the case may be, until the day on which the first meetings of the councils are held after ordinary elections to the Municipalities or the Town Panchayats, as the case may be, after the date of commencement of the Tamil Nadu Municipal Laws (Amendment) Act, 207 or upto the 30th day of June 2017, whichever is earlier."

33. Section 375-B was inserted by Act No.4 of 2017, w.e.f. 17.10.2016. In exercise of the powers under Section 375-B, Special Officers have been appointed to exercise the powers and discharge the functions of the Municipalities. The Special Officers so appointed, happened to be the Executive Officers or Commissioners of the Municipalities. This is sought to be faulted and stated to be without jurisdiction by applying the Principle of no man can be a judge of his own cause.

34. On a reading of Section 375 of the Act, it is clear that the Special Officers appointed by the Government, can exercise the powers and discharge the functions of the

Municipalities. Municipality has been defined under Section 3(12-D) to mean an institution of self-government constituted for a smaller Urban area as defined under Clause (2), Article 243-Q of the Constitution. Section 3 (12-C) defines Municipal Council to mean the Council of the Municipality or Municipalities, as the case may be. Thus, the power conferred on the Special Officer is to discharge the functions of the Municipality. Therefore, to state that the Special Officer in the capacity of Executive Officer of the Municipality is a Subordinate Officer, a Government Servant, who is bound to implement the Resolution of the Municipal Council, cannot discharge the function of an elected Council, which is a self-government is not tenable. In our considered view, the contention advanced by the Petitioners is wholly misconceived. The language employed in Section 375 is vividly clear. The Special Officers appointed can exercise powers and discharge the functions of the Municipality.

35. As rightly contended by the learned Special Government Pleader, the Special Officer replaces the Municipality. In other words, he is a substitute for the Municipality. The Municipality encompasses within itself the Municipal Council. Thus, when the Special Officer has been statutorily empowered to discharge the functions of the Municipality, it goes without saying that he discharges the function of the Municipal Council as well, as Municipal Council falls within the definition of Municipality, as could be seen on a combined reading of Section 3(12-C) & Section 3(12-D) read with Article 243-A of the Constitution.

36. It was argued that the Special Officer can discharge the day-to-day functions of a Municipality and nothing more. Unfortunately, we find that there is no such legal embargo in the statute, as the heading of Section 375 denotes that it is a transitory provision. Several statutes have incorporated transitory provisions, depending upon the field, in which they operate. The need to bring such a transitory provision stems from the embargo placed under Article 243-U(1) which reads as

follows:

"243-U. Duration of Municipalities, etc.— (1) Every Municipality, unless sooner dissolved under any law for the time being in force, shall continue for five years from the date appointed for its first meeting and no longer.

... .."

Thus, every Municipality can continue for 5 years from the date appointed for its first meeting and no longer. This will also apply in cases where the Municipality is dissolved prior to the expiry of 5 year period. In such contingency, necessary transitory provisions have to be provided as otherwise the interest of the Public will be affected and the State will not be in a position to guarantee the fundamental rights for every citizen. Having held so, it is clear that the Special Officer is the "Municipality".

37. The Municipality takes decision through its Council, which has now been replaced by the Special Officer. The decision taken by the Special Officer, who is the Municipality is required to be implemented by the Executive Officer of the Municipality in terms of Section 13-A of the Act. Therefore, we find that there is no unconstitutionality in Section 375 of the Act to strike down the said provision. Therefore, the prayer sought for by the Petitioners to issue a declaratory relief, is liable to be rejected."

11. Useful reference can also be made to the Division Bench judgement of this Court in Commissioner, Nagercoil Municipality, referred supra. The relevant portion is extracted hereunder:

"30. The elected local bodies were superseded and Special Officers have been appointed under the Tamil Nadu Municipal Laws (Amendment) Act, 3 of 2017. The Government appointed Special Officers to exercise the powers and discharge the functions of the village panchayats, panchayat union councils or district panchayats, as the case may be, until the day on which the first meetings of the village panchayats, panchayat union councils or the district

panchayats, as the case may be, are held after ordinary elections to said panchayats after the date of commencement of the Tamil Nadu Panchayats (Amendment) Act, 2017. Thus, in view of the said amendment, the Executive Officer or the Special Officer and the concerned local body would be entitled to exercise all powers and discharge all functions as could be done by the concerned local body. Therefore, merely because the Commissioner of the Municipality and the Executive Officer of the municipality are one and the same person can hardly have any impact. As the Executive Officer, the appellant has a duty to protect the interest of the Municipality."

12. It is clear from the above judgements that the Special Officers appointed can exercise powers and discharge functions of the panchayat. It is clear that the Special Officer is the "panchayat" till the elected body takes charge.

13. The status of the panchayat and the constitutional recognition given to the panchayat have been lucidly explained by the learned Single Judge W.P. (M.D.) No. 8929 etc., of 2020. The relevant portions of the judgement are extracted hereunder:

11. The challenge in W.P. (MD). Nos. 9554 and 9545 of 2020 is against the tender notifications issued in respect of Sivagangai Block in Sivagangai District. The tender process pertains to as many as 21 works and it is seen that all the items pertain to road works. While the respondents contend that they are interlinking roads, I find in most of the cases that the proposed road works start and end within particular Panchayat limits. In other words, there is no jurisdictional overlapping. For instance, Sl.No.2 pertains to Idayamelur Panchayat. It is in respect of what is known as Gandhi Nagar Road. The total length for which work is proposed is 0.400 kilometers and the cost estimate is Rs.9.15 lakhs. Mr.T.Lajapathi Roy, learned counsel, who is espousing the cause of Village Panchayat Presidents in Chellampatti Union submits that the road works start and end within the very same panchayat limits and there is absolutely no overlapping of jurisdictional limits. Mr.Malaiyendran, learned counsel

appearing for petitioner in W.P.(MD).No.9415 of 2020 states that as far as his case is concerned all the proposed road works start and end within the same Panchayat limit and there is no interlinking.

12.The learned counsel drew my attention to Article 243G of the Constitution. Part IX was introduced into the Constitution by the 73rd amendment w.e.f. 24.04.1993. Article 243B states that there shall be constituted in every State, Panchayats at the village, intermediate and district levels in accordance with the provisions of Part IX. Article 243G reads as follows:

"243G. Powers, authority and responsibilities of Panchayats.—Subject to the provisions of this Constitution, the Legislature of a State may, by law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and such law may contain provisions for the devolution of powers and responsibilities upon Panchayats at the appropriate level, subject to such conditions as may be specified therein, with respect to—

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule."

13.The Tamil Nadu Panchayats Act, 1994 was enacted by repealing the earlier statute so as to give effect to the aforesaid constitutional amendment. Section 110 of the Panchayat Act casts certain duties and functions on the Village Panchayat. Section 110 reads as follows:

"110.Duty of Village Panchayat to provide for certain matters.— Subject to the provisions of this Act and the Rules made thereunder, it shall be the duty of Village Panchayat, within the limits of its funds, to make reasonable provision for carrying out the requirements of the Panchayat Village in respect of the following matters, namely:—

(a) the construction, repair and maintenance of all village roads, that is to say, all public roads in the village (other than those classified as National Highways, State Highways, major district roads and Panchayat Union roads) and of all bridges, culverts, road-dams and causeways on such roads:

1[(aa)] the extension of village-sites and the regulations of building;]

(b) the lighting of public roads and public places in built-up areas;

(c) the construction of drains and the disposal of drainage water and sullage not including sewage;

(d) the cleaning of streets, the removal of rubbish heaps, jungle growth and prickly-pear, the filling in or disused wells, insanitary ponds, pools, ditches, pits or hollows and other improvements of the sanitary condition of the village;

(e) the provision of public latrines and arrangements to cleanse latrines whether public or private;

(f) the opening and maintenance of burial and burning grounds;

(g) the sinking and repairing of wells, the excavation, repair and maintenance of ponds or tanks and the construction and maintenance of water-works 2[for the supply of water for drinking, washing] and bathing purposes; and

(h) such other duties as the Government may, by notification, impose."

Though the learned Additional Advocate General submitted that exercise of such functions and duties is subject to the availability of fund, as rightly pointed out by the learned counsel for the writ petitioners, funds in this case have been made available by the 14th Central Finance Commission. G.O.Ms.No.107, dated 21.09.2017 lays down the guidelines for the utilisation of the 14th Finance Commission grant. It is seen from the said G.O that the Government of India marked an amount of Rs.8777.43 Crores as central finance grant to the States for the year 2015-2016 to 2019-2020. We are concerned with the year 2019-2020.

Annexure to the said G.O states that the Government of India has also directed that the Central Finance Commission grants should be released to the Village Panchayats only to enable the delivery of basic services such as water supply, street lights, roads, sanitations etc.,. Clause 3 of the said Annexure reads as follows:

"Identification of the Requirement of Basic Amenities:

As per the recommendations of the Fourteenth Central Finance Commission, Government Vide G.O. (Ms)No.34, Rural Development and Panchayat Raj Department, dated 02.03.2016 have detailed guidelines for the preparation of Village Panchayat Development Plans for comprehensive development of rural areas in Tamil Nadu and to enable grass root level planning, optimal utilization of resources and delivery of basic services effectively.

Every Village Panchayat should prepare the Village Panchayat Development Plan as per the guidelines for taking up works/delivery of services under Fourteenth Finance Commission Grant, Village Panchayat Development\ Plan would comprise of two components, namely, Perspective Plan for a five year period which shall be further broken into Annual Plans. Instruction have been issued vide G.O (Ms) No.108, RD & PR (PR1) Department, dated 24.07.2015 for the preparation of Village Panchayat Development Plan in all the Village Panchayats for 5 year period from the year 2015-16 and to prioritize the requirements for implementation of Fourteenth Finance Commission Grant every year Administrative sanction for works should be accorded by the District Collector for the yearly allocation on the basis of priority given by the Village Panchayats based on the Annual Plan subject to the type of works suggested in Para 5."

Clause 4 reads as follows:

"Executing Agency for utilization of grants:

Village Panchayat is the only local body which is eligible to get the Grants of 14th Finance Commission. Since Village Panchayat is responsible for provision of basic amenities in rural areas, this amount will be administered by

the Village Panchayats and works will be executed by the Village Panchayats. The infrastructure gaps are to be identified in the Village Panchayats as per the participatory planning process in accordance with the guidelines issued for the preparation of Village Panchayat Development Plan and the development works are to be prioritized and shortlisted for the amount available under the 14th Finance Commission Grants by Grama Sabha."

Clause 5.8 reads as under:

"Convergence of other funds/scheme:

? The Village Panchayat can take up works by dovetailing funds under centrally sponsored schemes, State Finance Commission Grant, Assigned Revenue and General Funds of Village Panchayats in addition to the Fourteenth Finance Commission Grants to create/improve infrastructure facilities in rural areas.

? The works/projects can be taken up by dovetailing funds from Capital Grant Fund (CGF) of Fifth State Finance Commission and 14th Central Finance Commission Grant."

Clause 9 reads as follows:

"Placement of work list in the Grama Sabha and approval:

The works shortlisted by the Village Panchayat under the 14th Finance Commission Grants should be placed before the Grama Sabha and got approval before taking it up for execution."

Clause 12 reads as follows:

"Mode of Execution:

The works will be executed by the Village Panchayats through tender as per Tender Transparency Act, 1998 and Rules 2000 and the procedures prescribed in G.O.(Ms) No.203, Rural Development and Panchayat Raj Department, dated 20.12.2007. The Block Development Officer (Village Panchayats) is the monitoring officer at Block level and the Project Director, DRDA is the monitoring officer at District level. The Overseer, Assistant Engineer/Junior Engineer, Assistant Executive Engineer and Executive Engineer are responsible for quality of the works. The District Collector is the overall authority for implementation of scheme at

District level.”

14.The communication dated 05.11.2019 issued by the Director of Rural Development & Panchayat Raj refers to G.O.(Ms)No. 34, Rural Development and Panchayat Raj Department, dated 02.03.2016. Of course, in the communication dated 05.11.2019, it is mentioned that the Project Director will be the Tender Inviting Authority and that the District Collector will be the Tender Accepting Authority. Though the learned Additional Advocate General laid considerable stress on this communication, it must be noted that the very validity of this communication along with the subsequent communication dated 17.06.2020 has been specifically put to challenge in W.P. (MD).No.9545 of 2020.

15.The primary question that arises for consideration is whether the total bypassing of the elected local bodies and exclusive conferment of power and authority on the bureaucrats is in consonance with the constitutional scheme as set out in Article 243G of the Constitution of India.

16.The learned counsel have specifically drawn my attention to the 11th Schedule of the Constitution. Entry 13 of the 11th Schedule is specifically about roads, culverts, bridges, ferries, waterways and other means of communication. Article 243G has to be read along with Entry 13 of Schedule 11. There is yet another aspect to be taken note of. As per Section 125 of the Tamil Nadu Panchayats Act, all the public roads in the Village Panchayat vest only in the Panchayat. Of course, roads classified as National Highways or State Highways or Major District Roads or Panchayat Union Roads will not vest with the Village Panchayat. It is not the case of the respondents that the roads in question fall under such exempted categories or that they do not vest in the Village Panchayats. When the roads in question very much vest in the Village Panchayat, I fail to understand as to how works in respect of those roads can be taken up by authorities or agencies by excluding the elected bodies altogether.

17.I find considerable force in the contention of the learned counsel for the writ petitioners

that in the State of Tamil Nadu there were no elected local bodies for several years. When the communication dated 05.11.2019 was issued by the Director of Rural Development Panchayat Raj, Chennai, there were no elected local bodies. Therefore, entrustment of authority on the Project Director, DRDA could be understood. But by the end of 2019, local body elections were conducted and by January 2020, the elected bodies had assumed charge. Therefore, the Director of Rural Development and Panchayat Raj ought to have issued a revised communication by taking note of the subsequent developments that had taken place on the grass root level. It is unfortunate that these have been totally ignored and lost sight of by the respondents.

18. Article 40 of the Constitution of India mandates that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. The Hon'ble Supreme Court in the decision reported in (2012) 7 SCC 550 (Village Panchayat, Calangute Vs. The Additional Director of Panchayat-II and Ors) observed as follows:

"21. The Preamble, Part IV and Part IX of the Constitution must guide our understanding of the Panchayati Raj institutions and the role they play in the lives of the people in rural parts of the country. The conceptualization of the Village Panchayat as a unit of self government having the responsibility to promote social justice and economic development and as a representative of the people within its jurisdiction must be borne in mind while interpreting the laws enacted by the State which seek to define the ambit and scope of the powers and the functions of Panchayats at various levels.

22. An analysis of Article 40 and Articles 243 to 243O shows that the framers of the Constitution had envisaged Village Panchayat to be the foundation of the country's political democracy - a decentralized form of Government where each village was to be responsible for its own affairs. By enacting the Constitution (Seventy-third Amendment) Act, Parliament has attempted to remedy the defects and remove the deficiencies of the Panchayati Raj system

evolved after independence, which failed to live up to the expectation of the people in rural India. The provisions contained in Part IX provide firm basis for self-governance by the people at the grass root through the institution of Panchayats at different levels. For achieving the objectives enshrined in Part IX of the Constitution, the State Legislatures have enacted laws and made provision for devolution of powers upon and assigned various functions listed in the Eleventh Schedule to the Panchayats. The primary focus of the subjects enumerated in the Eleventh Schedule is on social and economic development of the rural parts of the country by conferring upon the Panchayat the status of a constitutional body. Parliament has ensured that the Panchayats would no longer perform the role of simply executing the programs and policies evolved by the political executive of the State. By virtue of the provisions contained in Part IX, the Panchayats have been empowered to formulate and implement their own programs of economic development and social justice in tune with their status as the third tier of government which is mandated to represent the interests of the people living within its jurisdiction. The system of Panchayats envisaged in this Part aims at establishing strong and accountable systems of governance that will in turn ensure more equitable distribution of resources in a manner beneficial to all."

19. The respondents have not kept in view the constitutional objective as adumbrated above. Duly elected local bodies have been treated as non-existent and totally ignored in the process of decision-making. While the District Collector is the authority competent to accord administrative sanction for tender works valued more than Rs.50,000/-, the proposals must emanate from the local bodies concerned. If there is no elected local body, the Block Development Officer can submit proposals. Unless it is a case of emergency, it is the local body that must deliberate and make the proposals. The central government had specifically mandated that the funds are for the local bodies. The manner of utilisation has also been spelt out. The government orders mentioned above speak of formulation of village development plan. In

these cases, nothing of the sort has happened. While Part IX of the Constitution envisages bottom-up model, the respondents believe in top-down approach."

14. It is seen from records that the Government of India has issued guidelines for the implementation of recommendation of the 14th FFC for the period from 2015-20 for the release of grant-in-aid to State Governments for Rural and Urban Local Bodies. It is made very clear in the guidelines that the grant-in-aid has to reach only the duly constituted panchayats which has been defined as the "elected body". In more than one place in these guidelines, the insistence is upon the elected body of the panchayat. Such insistence is made considering the constitutional status given to the panchayats and the exclusive power vested with the panchayat under Article 243G read with the 11th Schedule which provides for 29 Entries covering various subjects where the power, authority and responsibility to implement various schemes have been conferred on the panchayat. This Court does not want to once again repeat the scope and ambit of the powers of the panchayat after the 73rd Amendment in the Constitution and it has been sufficiently dealt with by the learned Single Judge in the above judgement.

15. It is clear from the submissions of the learned AAG that even the Respondents do not have any doubt regarding the constitutional status of the panchayat and the independence given to the panchayat in implementing the schemes and carrying on with the work. Upon such clear understanding, it must be seen as to whether the Respondents can proceed further to issue tender notification to appoint contractors for carrying on the road works without any consultation with the elected body.

16. It was contended on the side of the Petitioners that the above judgement of the learned Single Judge will squarely apply to the facts of the present case. However, the learned AAG contended that the law laid down in the above judgement did not cover the scenario where the initiation of the process had already commenced before the elected body took charge and it is now only at the stage of implementation which can very well be done under the supervision of the elected body and even the funds will be released only to the panchayat, who will make the payments after the completion of the work. To that extent, an attempt has been made to differentiate the above judgement.

17. A careful reading of the judgement rendered by the learned Single Judge shows that the scenario that was prevailing is the same as in the present case also. The same is clear on a careful reading of paragraph 17 of the said judgement. The learned Single Judge has taken note of the fact that when the communication dt. 05.11.2019, was issued by the Director of Department of Rural Development and Panchayat Raj, there was no elected body available. After giving such a finding, the learned Single Judge takes note of the fact that the elected body assumed charge during January 2020. Thereafter, the learned Single Judge has directed the tender process to be terminated and allowed the Village Panchayat to deliberate and submit fresh proposals for utilisation of the funds to carry on with the work.

18. On a careful analysis of the facts of the case, this Court is not in agreement with the submission of the learned AAG to the effect that the process was initiated to carry on with the work even before the elected body assumed charge. A reading of the letter dt. 18.08.2020, written by the Director of Department of Rural Development and Panchayat Raj to all the District Collectors shows that only during August 2020, the process of finalisation of the road list was started. The Schedule that was given in the said letter also clearly establishes the fact that the initiation of the work had not started before the assumption of charge by the elected body. What was sought to be utilised was the second instalment of the funds provided by FFC for the year 2019-20. This was placed in the budget only during February 2020 and it was deliberated in the Assembly during the budget speech made on 14.02.2020. It is only at the end of the budget session, the appropriation from the allocated funds will take place and only thereafter, it can be utilised for carrying on with the work. Therefore, by no stretch can it be claimed that the initiation of work had started even before the elected body took charge. The elected body was very much in-charge even before the budget allocation and the discussion that took place in the Assembly. A careful reading of the letter dt. 17.06.2020 clearly establishes the fact that the Respondents were independently acting on the instructions given by the Government to identify link roads and to carry on with the work. The Schedule for the administrative sanction, technical sanction and issuance of tender was dealt with in this letter. Ultimately, the letter dt. 15.07.2020, which takes note of the earlier letters dt. 05.11.2019 and 17.06.2020 gives certain instructions to the respective Executive Engineers and Block Development Officers for carrying on with the work and the role of the panchayat is brought in only at the time of disbursement of the amount to the contractors wherein, the President of the panchayat will have to counter-sign the cheque.

19. In the considered view of this Court, the letter dt. 05.11.2019, has formed the basis for all the subsequent letters issued by the Director of Department of Rural Development and Panchayat Raj. This letter was issued when there was no elected body. Once the elected body assumes charge, the entire scenario changes and the decision to carry on with the work starts with a discussion by the elected body to the Gram Sabha and a decision is taken as to the works that are to be carried out. Thereafter, the manner in which the preparation of plans and estimates for works and mode and conditions of contracts will be governed by the concerned Rules. Similarly, while calling for tender, the provisions of the Transparency Act will come into play and the Tender Inviting Authority and the Tender Accepting Authority will be decided according to the financial limits provided therein. Whether individual tenders are going to be invited or it is going to be packaged is also a decision to be taken by the elected body.

20. The various communications that have been brought to the notice of this Court, completely side-lines the elected body and they are brought into picture only at the time of counter-signing the cheque. This clearly goes against the constitutional scheme as well as the provisions of the Act. If these instructions are implemented, the elected body can only be an onlooker during the entire process and it will go against the very object of Panchayati Raj System. In fact, this Court is not happy with the stand taken at paragraph 20 of the counter affidavit which virtually belittles the status of the panchayat. The only way to improve the Panchayati Raj System is to recognise their independence and empower them to take independent decisions and implement the same. It does not augur well to state that the panchayat cannot conduct the tenders and follow the proper implementation procedures. Such statements made in the counter-affidavit only shows the attitude of the Government and the Executive who even now seem to be thinking that panchayats are their subordinates. This mental block must be removed and the panchayat must be allowed to carry on with their functions in accordance with the Constitution and the Act and the fund utilisation must be purely governed by the FFC guidelines. Of course, it goes without saying that the 1998 Rules which has thereafter been superseded by the 2007 rules, will govern the preparation of plans and estimates for works and mode and conditions of contracts. That apart, the relevant notification issued under the Transparency Act will govern the appointment of tender inviting authority and tender accepting authority. This is the broad spectrum within which the panchayat will have to function. Any instructions or guidelines which interferes into the independence of the functioning of the panchayat will be ultra vires the Constitution and the Act.

21. In view of the above discussion, this Court has absolutely no hesitation to interfere with the tender process initiated by the Respondents and the entire process shall stand terminated. Wherever, the work orders have already been issued, the work can continue and this order will not stand in the way for the completion of the work which has already commenced. The concerned panchayats shall deliberate and decide on the works to be carried out after consultation with the Gram Sabha and submit fresh proposals for the utilisation of the funds and the Respondents shall thereafter, act in accordance with law by expediting the works and ensure proper utilisation of the funds. Fresh tender process shall thereafter, be initiated in accordance with law for the purpose of identifying the contractor for carrying out the work.

22. In the result, all the Writ Petitions are allowed on the above terms. No costs. Consequently, all the connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(Insp.Cell)

//True Copy//

Sub Assistant Registrar

KP

To

1. The Director,
Rural Development & Panchayat Raj Department,
Panagal Building, Saidapet, Chennai-15.
2. The District Collector,
Namakkal District.
3. The District Collector cum District Rural Development
Agency, Krishnagiri District, Krishnagiri.
4. The Project Director,
District Rural Development Agency,
(DRDA), Krishnagiri District,
Krishnagiri.
5. The Assistant Director of Panchayat,
Krishnagiri.

6. The Block Development Officer,
Kaveripattinam Panchayat Union,
Kaveripattinam, Krishnagiri District.
7. The Secretary,
The Government of India,
Ministry of Finance Department of Expenditure,
(Finance Commission Division)
11th Block, 5th Floor,
CGO Complex, Lodi Road,
New Delhi-110 003.
8. The Chief Secretary,
The Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai-09.
9. The Secretary,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu,
Secretariat, Fort St.George, Chennai-9.
10. The District Collector cum District Rural
Development Agency, Perambalur District,
Perambalur.
11. The Project Director,
The District Rural Development Agency,
Perambalur District, Perambalur.
12. The Assistant Director of Panchayats,
Perambalur.
13. The Block Development Officer,
Veppanthattai Panchayat Union,
Veppanthattai, Perambalur District.
14. The Block Development Officer,
Veppanapalli Panchayat Union,
Veppanapalli, Krishnagiri District.
15. The District Collector cum District Rural Development
Agency, Dharamapuri District, Dharamapuri.
16. The Project Director,
District Rural Development Agency (DRDA),
Dharamapuri District, Dharamapuri.
17. The Assistant Director of Panchayat,
Dharamapuri.

18. The Block Development Officer,,
Karimangalam Panchayat Union,
Karimangalam, Dharamapuri District.
19. The Project Director,
District Rural Development Agency,
Thiruvallur District, Thiruvallur.
20. The Inspector of Panchayat and District Collector,
Thiruvallur District, Thiruvallur.
21. The Principal Secretary,
The Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Fort St.George, Chennai-600 009.
22. The Collector and Chairman,
District Rural Development Agency,
Cuddalore, Cuddalore District,
Tamil Nadu.
23. The District Collector cum District Rural Development
Agency, Tiruvarur District, Tiruvarur.
24. The District Rural Development Agency (DRDA)
Tiruvarur District, Tiruvarur.
25. The Assistant Director of Panchayats,
Tiruvarur.
26. The Block Development Officer,
Mannargudi Panchayat Union,
Mannargudi, Tiruvarur District.
27. The Secretary,
Government of India,
Ministry of Finance,
Department of Expenditure
(Finance Commission Division)
11th Block, 5th Floor, CGO Complex,
Lodi Road, New Delhi-110 003.
28. The Chief Secretary,
Government of Tamil Nadu,
Secretariat, Fort St.George,
Chennai-600 009.
29. The Secretary,
Rural Development and Panchayat Raj Department,
Government of Tamil Nadu, Secretariat.

30. The District Collector cum District Rural Development Agency, Sivaganga District, Sivaganga.
31. The Project Director,
District Rural Development Agency (DRDA),
Sivaganga District, Sivaganga.
32. The Assistant Director of Panchayats,
Sivaganga.
33. The Block Development Officer,
Kannangudi Panchayat Union,
Kannangudi, Sivaganga District.

+2cc to Mr.J.Thilagaraj, Advocate in sr.no.33382
+1cc to Mr.P.Wilson Asso., Advocate in sr.no.33467
+1cc to Government Pleader, in sr.no.33696

WP.Nos.14020, 12471,11009,11515, 11693, 11742,
11749,12091,12098,12118,12141,12159,12163,12169,12172,12176,
12182,12403,12455,12486,12489,12515,12562,13148,13382,13392,
13399,13474,13521,13523,13548,13807,10303,10427,10691, 13865 &
13987 of 2020

SSD & MP(CO's)
CS/07/12/2020



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