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W.P(MD)No.10073 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.08.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.SATHYANARAYANAN**
and
THE HONOURABLE MR.JUSTICE **P.RAJAMANICKAM**

W.P (MD) No.10073 of 2020
and
W.M.P (MD) No.8972 of 2020

Vijayakumar @ Sekar

.. Petitioner

Vs.

- 1.The Government of Tamil Nadu
Rep. by its Secretary,
Department of Local Administration,
Fort St. George, Secretariat,
Chennai - 600 009.
- 2.The Chief Engineer,
Public Works Department (Water Resources),
River Safety Division,
Chepauk, Chennai-5.
- 3.The Commissioner,
Hindu Religious and Charitable Endowment,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai - 600 034.
- 4.The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Road, Guindy,
Chennai - 600 032.
- 5.The Managing Director,
Tamil Nadu Water Supply and Drainage Board,
TWAD Illam, Kamarajar Salai, Cheapauk,
Chennai - 600 005.
- 6.The District Collector,
Thiruchirapalli District,
Thiruchirapalli.



7.The Commissioner,
Thiruchirapalli Corporation,
Thiruchirapalli.

8.The Executive Engineer,
Public Works Department (RC),
Trichy.

9.The Joint Commissioner,
Hindu Religious and Charitable Endowment,
Srinivasa Nagar, Thiruvanaikoil,
Thiruchirapalli - 620 005.

10.The Executive Engineer,
Tamil Nadu Pollution Control Board,
No.25, Developed Plots,
Thuvakudi, Thiruchirapalli - 620 015.

11.The Executive Engineer,
Tamil Nadu Water Supply and Drainage Board,
No.35, J.K.Nagar,
E.V.R. College Backside,
Kaja Nagar Post, Tiruchi - 620 023.

12.The Tahsildar,
Thiruvarambur,
Tiruchi.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus, forbearing the respondents 1, 6 and 7 from constructing any Sewage Storage Plant (SSP) and Sewage Treatment Plant (STP) in the subject property in Survey No.81 of No.46, Keela Kalkandar Kottai Village, Ward No.63, Ponmalai Division, Thiruchirapalli-II.

For Petitioner : Mr.K.Gokul

For Respondents : Mr.K.P.Krishnadoss,
1,2,4,6,8,10 and 12 Special Government Pleader.

For Respondents 3 and 9 : Mr.K.P.Narayanakumar,
Special Government Pleader.

For Respondents : Mrs.Porkodi Karnan,
5 and 11 Standing Counsel for TWAD Board.

For Respondent No.7 : Mr.N.S.Karthikeyan,
Standing Counsel
for Trichy Corporation.

**ORDER**

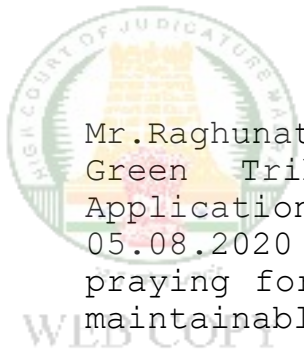
[Order of the Court was made by **M.SATHYANARAYANAN, J.**]

This writ petition styled as a Public Interest Litigation, is filed by the petitioner, who is an agriculturist and according to him, there are more than 2000 households in Keela Kalkandar Kottai Village and the said area now falls within Ward No.63 of Trichy City Municipal Corporation Limits. The specific case of the petitioner is that the land admeasuring 1.27.0 hectare, which is equivalent to 3.13 acres, classified as "Sarkar Poramboke", is being used as "Thrashing Ground (Kalam)" for the benefit of the agriculturists and it is in existence for over 1000 years.

2.The grievance expressed by the petitioner is that the seventh respondent is making attempts to establish a Sewage Storage Plant (SSP) and Sewage Treatment Plant (STP) and in that event, the agriculturists are not only deprived of the said 'Thrashing Ground', there is every likelihood that the partly treated sewage water will be let out, which will spoil the nearby agricultural lands and also it is found to be emanation of foul smell, which would definitely cause health hazards and serious hardships to the nearby residents. The petitioner and other residents of the nearby locality, had also submitted a detailed representation, dated 18.11.2019 followed by a reminder representation, dated 27.07.2020 and despite receipt and acknowledgment, no response is forthcoming and taking advantage of the same, the officials of the seventh respondent Corporation are hurriedly proceeding with the construction and hence, prays for appropriate orders.

3.Mr.K.P.Krishnadoss, learned Special Government Pleader, accepts notice on behalf of the respondents 1, 2, 4, 6, 8, 10 and 12. Mr.K.P.Narayanakumar, learned Special Government Pleader, accepts notice on behalf of the respondents 3 and 9. Mrs.Porkodi Karnan, learned standing counsel for TWAD Board, accepts notice on behalf of the respondents 5 and 11. Mr.N.S.Karthikeyan, learned standing counsel, accepts notice on behalf of the seventh respondent.

4.The learned standing counsel appearing for Trichy City Municipal Corporation, would submit that one Mr.Balasubramanian, has filed W.P(MD)No.6349 of 2020, seeking for a writ of mandamus, forbearing the Trichy City Municipal Corporation and other official respondents from constructing any Sewage Storage Plant (SSP) and Sewage Treatment Plant (STP) in the subject property in Survey No.81 of 46, Keela Kalkandar Kottai Village, Ward No.63, Ponmalai Division, Trichy - 11 and it was dismissed on 29.05.2020 and similar effort made by one Mr.K.S.Vijayan, by filing W.P(MD)No.25356 of 2019 was also dismissed by a Division Bench of this Court, vide order, dated 28.11.2019. It is further pointed out that one



Mr.Raghunath Mayilan, has also invoked the jurisdiction of National Green Tribunal, Southern Zone, Chennai, by filing Original Application No.139 of 2020 (SZ) and it was also dismissed on 05.08.2020 and in the light of the dismissal of the petitions praying for similar relief, the present writ petition is not at all maintainable.

5.The learned standing counsel appearing for the Trichy City Municipal Corporation - seventh respondent, on instructions, would submit that the necessary clearances have been obtained from the concerned statutory authorities for construction and operation of Sewage Storage Plant and Sewage Treatment Plant on the land in question and on completion of the construction and being put into operation, no untreated water would be let in outside and there will not be any emanation of foul smell, etc., which would not cause inconvenience, discomfort and hardship to the nearby residents and any complaint received in this regard, would also be promptly attended without driving the concerned petitioner to approach the legal forum.

6.This Court has considered the rival submissions and perused the materials available on record.

7.Similar efforts made by various petitioners forbearing Trichy City Municipal Corporation from putting up the Sewage Storage Plant and Sewage Treatment Plant, have ended in failure and admittedly, public interest element is also involved in construction of the Sewage Storage Plant and Sewage Treatment Plant. But at the same time, the Trichy City Municipal Corporation, is also under statutory as well as under moral obligation to maintain the Sewage Storage Plant and Sewage Treatment Plant, strictly in accordance with the norms, rules and regulations and they should see that no untreated sewage water is let out and that there shall not be any emanation of foul smell, other acts or things, which would cause inconvenience, discomfort, hardships to the residents of the nearby localities and in this regard, it is also required to file periodical status reports supported by documents and photographs.

8.In the result, the writ petition is disposed of and the seventh respondent - Corporation is permitted to proceed with the construction and operation of the Sewage Storage Plant and Sewage Treatment Plant, which shall be subject to strict compliance of the terms and conditions of clearances, rules and regulations and norms and also in the light of the observations made in this order. No costs. Consequently, connected Miscellaneous Petition is closed.



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9.Call on **06.10.2020**. Status report of the seventh respondent with supporting documents and photographs, by then.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

smn

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary,
Department of Local Administration,
Government of Tamil Nadu,
Fort St. George, Secretariat,
Chennai-600 009.
2. The Chief Engineer,
Public Works Department (Water Resources),
River Safety Division,
Chepauk, Chennai-5.
3. The Commissioner,
Hindu Religious and Charitable Endowment,
119, Uthamar Gandhi Salai, Nungambakkam,
Chennai-600 034.
4. The Chairman,
Tamil Nadu Pollution Control Board,
76, Mount Road, Guindy,
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5. The District Collector,
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Thiruchirapalli.



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10. The Tahsildar,
Thiruvarambur,
Tiruchi.

+1 CC to the SPL GP (SR-15116[F] dated 27/08/2020)

ORDER MADE IN
W.P (MD) No.10073 of 2020
26.08.2020

CS(07.09.2020) 6P 12C