



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 01.10.2020

PRONOUNCED ON : 07.10.2020

CORAM

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THE HONOURABLE MR. JUSTICE G.R. SWAMINATHAN

W.P. (MD)No.11489 of 2020 and

W.M.P. (MD)No.10031 of 2020

K.Ajeethkumar,
S/o.Krishnan Nair,
President,
Paloor Village Panchayat,
Pootetty and Post,
Kanyakumari District.

... Petitioner

Vs.

1. The District Collector,
Collectorate,
Nagercoil,
Kanyakumari District.

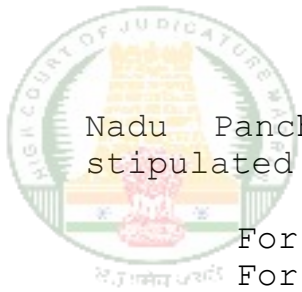
2. The Project Officer,
District Rural Development Agency,
Collectorate, Nagercoil,
Kanyakumari District.

3. The Assistant Director of Panchayat,
Collectorate,
Nagercoil,
Kanyakumari District.

4. The Block Development Officer(Village Panchayat),
Killiyoor Panchayat Union,
Killiyoor,
Kanyakumari District.

... Respondents

PRAYER: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the respondents from conducting package tender in respect of the funds allocated under the 14th and 15th Finance Commission to carry out all the basic works in the village panchayat by way of usurping the tender inviting powers of the petitioner and consequently for a direction, directing the respondents to restore the power of the petitioner in inviting tenders in respect of the basis works to be carried out in the village panchayat in accordance with the provisions of the Tamil



Nadu Panchayats Act, 1994 and Rules within the time period stipulated by this Court.

For Petitioner
For R-1 to R-3

: Mr.A.Balakrishnan
: Mr.M.Sricharan Rangarajan,
Additional Advocate General,
assisted by,
Mrs.S.Srimathy,
Special Government Pleader.

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For R-4

: Mr.Jeyakumar

* * *

ORDER

Heard the learned counsel appearing for the petitioner and the learned Additional Advocate General appearing for respondents 1 to 3 and the learned counsel appearing for the fourth respondent.

2. The writ petitioner is the president of Paloor village panchayat falling within Killiyoor Panchayat Union, in Kanyakumari District. The prayer made in this writ petition is for forbearing the respondent authorities from conducting package tender in respect of the funds allocated under the 14th and 15th Finance Commission. The petitioner has given a representation dated 06.07.2020 in this regard. Since there was no immediate response, this writ petition came to be filed.

3. The respondents have filed a detailed counter affidavit and also a typed set of papers.

4. The learned Additional Advocate General appearing for the respondents would point out that the prayer made in this writ petition is rather general and sweeping. However, he would point out that immediate provocation appears to be the floating of tender for carrying out certain road works. He would point out that Paloor village panchayat was duly associated in the process. In the typed set of papers filed by the respondents, the resolution passed by the petitioner panchayat has been enclosed.

5. I am satisfied that the instant project works have been identified and approved by the panchayat. The petitioner's counsel would contend that the tender should also be floated only by the village panchayat. I am afraid, this cannot be accepted as such. As rightly pointed out by the learned Additional Advocate General, Tamil Nadu Panchayats (Preparation of plans and Estimates for works and mode and conditions of contracts) Rules, 2007 is already governing the field. The village panchayat will be the competent authority to accord administrative sanction as well as finalise tenders only within the limits prescribed in G.O.Ms.No.132 Rural Development and Panchayat Raj (PR.I) Department dated 04.08.2008 r/w.



G.O.Ms.No.203 Rural Development and Panchayat Raj Department dated 20.12.2007.

6. It is obvious that the project estimates in the case on hand are above the aforesaid ceiling limits prescribed in the said Government Orders. Therefore, the village panchayat president cannot insist that he should be the tender finalising authority. The tender will be conducted and finalised as per the provisions set out in Tamil Nadu Panchayats Act 1994 and Rules framed therein.

7. Of course this Court cannot lose sight of the fact that G.O.Ms.No.34 Rural Development and Panchayat Raj (PR-1) Department dated 02.03.2016 issued by the Government of Tamil Nadu contains the following Clauses 10 to 12:

"10. Preparation of Estimates:

After identification and approval of works by the Village Panchayat and validation by the Gram Sabha, actual estimates should be prepared by the concerned technical officials.

No estimate should be prepared by the concerned technical officials without verification at the field. Estimates prepared by the Engineers should be randomly checked by the Assistant Executive Engineer and the Executive Engineer(RD) in order to ensure that only actual and correct estimates are prepared.

11. Administrative sanction:

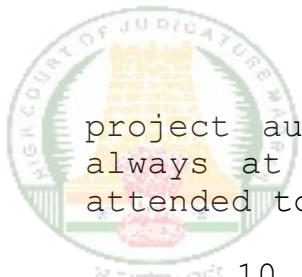
Administrative sanction for the works for implementing the plan will be accorded as per the existing rules in force after detailed scrutiny of the estimates by the appropriate authorities.

12. Executing Agency for implementing plan:

Since Village Panchayat is the local body which is responsible for provision of basic amenities in rural areas, the works relating to Rural Development and Panchayat Raj Department will be executed through Village Panchayats in accordance with the provisions of the Tamil Nadu Panchayats Act, 1994 and the rules issued thereunder. The implementation of the plan will also be monitored by the Village Panchayats."

8. The respondents will bear in mind the directives set out in the aforesaid clauses while carrying out the other scheme works funded by the Central Finance Commission grants.

9. It is open to the petitioner to draw the attention of the



project authorities if there is any deviation. The petitioner is always at liberty to do so. I am certain that the same will be attended to with utmost expedition.

10. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

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 District Collector,
Collectorate,
Nagercoil,
Kanyakumari District.
 2. The Project Officer,
District Rural Development Agency,
Collectorate, Nagercoil,
Kanyakumari District.
 3. The Assistant Director of Panchayat,
Collectorate,
Nagercoil,
Kanyakumari District.
 4. The Block Development Officer(Village Panchayat),
Killiyoor Panchayat Union,
Killiyoor,
Kanyakumari District.
- +1 CC to M/s.A. BALAKRISHNAN, Advocate (SR-19484[F] dated 08/10/2020)

W.P. (MD) No.11489 of 2020

07.10.2020

sj(CO)

KK(21.10.2020) 4P 6C

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