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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.06.2021

CORAM

THE HON'BLE MR.JUSTICE M.M.SUNDRESH
and
THE HON'BLE MS.JUSTICE R.N.MANJULA

W.A.No.2036 of 2018

Sivagiri Town Panchayat,
Sivagiri, Erode District.

... Appellant

Vs

1.The Senior Superintendent of Post Offices,
Erode Division, Erode, Erode District.

2.The Director of Town Panchayat,
Kuralagam, Parry's, Chennai.

3.The District Revenue Officer,
Erode, Erode District.

.. Respondents

Appeal filed under Clause 15 of Letters Patent against the order dated 11.07.2018 made in W.P.No.8333 of 2015.

Prayer in W.P.No.8333 of 2015:

It is prayed that this Hon'ble Court may be pleased to issue a Writ of Mandamus order or direction in the nature of Writ forbearing the 1st Respondent from constructing compound wall in S.No.736/18 Sivagiri village Erode district and consequently direct the 1st Respondent to accept the sivagiri Town Panchayat offer for handing over the Panchayat Land situated in S.No.738/3A sivagiri village for construction of the Post Office and pass such further or other order.

For Appellant : Mr.C.Prakasam

JUDGMENT
(Delivered by M.M.SUNDRESH, J.)

This appeal has been filed by the Panchayat. The appellant sought for a writ of mandamus forbearing the first respondent from constructing the compound wall and for a direction to the first respondent to accept the alternative offer made.



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2. Taking into consideration the aforesaid prayer, the learned Single Judge passed the following order:

"3. Under these circumstances, the learned counsel appearing on behalf of the writ petitioner made a submission that the writ petitioner/Panchayat had already handed over the said property in favour of the Postal Department and now they are finding it difficult to run the Panchayat in the limited premises available. Therefore, alternative proposals have been submitted by the Director of the Town Panchayat, stating that they are ready to part with the opposite land situated in Sl.No.736/18, in favour of the postal Department and in lieu of the said alternate land, the postal Department shall re-convey the land in favour of the Panchayat Union. Such a proposal, if at all submitted by the writ petitioner/panchayat can never be adjudicated in the writ proceedings under Article 226 of the Constitution of India. These are all policy decisions to be taken by the authorities competent, and this Court cannot provide suggestions or opinions in respect of such policy decisions. The policy decisions in respect of providing a land for the purpose of construction of a Post Office or otherwise, has to be taken at the administrative level and it is an administrative propogative of the Department concerned. All such policy decisions sought to be taken, of course, shall be in the interest of public and for efficient public administration. However, this aspect cannot be considered by this Court in a writ proceedings. It is left open to the writ petitioner to submit a representation and if they are of the opinion that such a policy decision is required to be taken in the interest of public, it is left open to the authorities competent to consider the same, in accordance with law."

Aggrieved over the same, the present appeal is filed.

3. Learned counsel appearing for the appellant submitted that need for the land to be used by the appellant is not in dispute especially when the upgradation has taken place. Over the years, the land has been allowed to remain shallow, without



putting into any use. Therefore, the writ appeal will have to be allowed.

4. We do not find any reason to interfere with the order passed by the learned Single Judge. As rightly held by the learned Single judge, there is no legal right vested with the appellant. The appellant being the public authority, seeks relief against the another one without having any title. Ultimately, it is for the first respondent to consider the request of the appellant, as indicated by the learned Single Judge.

5. In such view of the matter, the writ appeal stands dismissed. No costs. However, we make it clear that our order will not stand in the way of the appellant seeking appropriate relief from the first respondent.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

mmi/ssm

To

- 1.The Senior Superintendent of Post Offices,
Erode Division, Erode, Erode District.
- 2.The Director of Town Panchayat,
Kuralagam, Parry's, Chennai.
- 3.The District Revenue Officer,
Erode, Erode District.

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srg 27/07/2021