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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

WRIT PETITION NO.20863 OF 2021

AND

WMP NO.22128 OF 2021

M.Parameswari,
W/o. Madheswaran

.... Petitioner

-Vs-

- 1 The Commissioner,
Erode Corporation,
Erode.
2. The Superintendent of Police,
Erode District,
Erode.
3. The Sanitary Inspector,
1st Division, Erode Corporation,
R.N.Pudur, Erode.
- 4 The Inspector of Police,
Erode North Police Station,
Erode.

.... Respondents

Prayer :

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the 1st and 2nd respondents to consider petitioner's representation dated 04.09.2021 and prohibit the 3rd and 4th respondents from disturbing peaceful maintenance of the public toilet by the petitioner situated at Bharathi Nagar, Veerappanchanttram, Erode without following the procedure established by law.

For Petitioner	:Mr.M.Jayaprakash Narayanan
For Respondents	:Mr.M.Raja Mathivanan, Standing Counsel for R1 and R3 Mr.U.Baranidharan, Government Advocate for R2 & R4



O R D E R

This writ petition has been filed for the issue of a writ of mandamus directing the respondents 1 and 2 to consider the representation made by the petitioner dated 04.09.2021 and forbearing the third and fourth respondents from interfering with the maintenance of public toilet by the petitioner.

2. The case of the petitioner is that the public toilet was constructed out of the M.L.A., funds in the year 2016 and it was handed over to Thamarai Women Self Help Group. The petitioner claims that she is the President of the Self Help Group and they were collecting nominal and affordable charges from the users of this public toilet.

3. The grievance of the petitioner is that the officials belonging to the third respondent, all of a sudden, directed the petitioner to hand over the keys of the public toilet and hence a representation was made to the first and second respondents to direct the third and fourth respondents not to interfere with the maintenance of the public toilet. Since the same was not acted upon, the present writ petition has been filed before this Court seeking appropriate direction.

4. The first respondent has filed a counter affidavit. The relevant portions of the counter affidavit are extracted hereunder.

" 9. It is humbly submitted that it is not correct to state that the public toilet situated at their area is maintained by them from the year 2016 to till date in a hygienic manner without any complaint from the public and without following any procedure including natural justice, the 3rd respondent threatening them to hand over keys of the public toilet to an individual person and if the same is allowed the common public living in the area/locality would be put to suffer without proper public toilet facility.

10. It is humbly submitted in fact this petitioner and some others at the instance of the petitioner attempted to encroach upon the toilet with the extent to collect charges from the public for using the toilet. She said public toilet is built up only for the poor people of that area to be used free of cost. Under such circumstances this petitioner and others projecting them as members of women self help group encroached upon the public toilet for their personal use and that lot of complaints were received by the officials. In



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pursuance of it, due inspections made in the public toilet and advised them to vacate the premises and also advised them to refrain from collecting charges after close of the toilet in the night hours. But, they have not changed their attitude. The Corporation men inspected the toilet lastly on 01.09.2021 and in pursuance necessary steps were taken and the encroachment of the toilet was removed only with the help of the police. In fact the corporation sanitary workers are deployed to look after the toilet and they used to open the toilet in the early hours of morning and closed it in the night around 9.00 P.M.

...

12. It is humbly submitted that the corporation sanitary workers are looking after the toilet daily. No other persons are allowed to look after the toilet at any point of time much less the petitioner and others belonging to her alleged Women Self Help Group. The petitioner or others belong to her alleged group has no right whatsoever to look after the toilet. The purpose of construction of the toilet is to be used for the poor people for free of cost and it is the policy of the Government and funds were allotted and the sanitary workers employed in the corporation are looking after the toilet. The act of petitioner is unwarranted one and she has no right to claim over the maintenance of the toilet."

5. Heard Mr.Jayaprakash Narayanan, learned counsel appearing for the petitioner, Mr.M.Rajamathivanan, learned Standing Counsel for respondents 1 and 3 and Mr.U.Baranidharan, learned Government Advocate appearing for respondents 2 and 4.

6. The case of the petitioner is that the Women Self Help Group has been maintaining the public toilet from the year 2016 onwards. Except for the ipsi dixit of the petitioner, there is absolutely no material for the petitioner to show that the Self Help Group is maintaining the public toilet. Whereas, a specific stand is taken in the counter affidavit to the effect that the Corporation is maintaining the public toilet from the year 2016. Except for a copy of the representation dated 04.09.2021 and some photographs, there is absolutely no material to substantiate the claim made by the petitioner. When the petitioner has approached this Court seeking for enforcing the legal right, it has to be supported by sufficient materials and this Court cannot issue directions merely based on some statement made by the petitioner in the affidavit. In view of the specific stand taken by the respondent Corporation in the



counter affidavit to the effect that they are maintaining the public toilet and that it was encroached by some persons and the said encroachment was removed by taking necessary steps on 01.09.2021, there is no scope for this Court to grant the relief as sought for in this writ petition. It is made clear that the public toilet shall be maintained in hygienic condition by the Corporation.

7. In view of the above, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

KST

To

- 1 The Commissioner, Erode Corporation, Erode.
2. The Superintendent of Police, Erode District, Erode.
3. The Sanitary Inspector, 1st Division, Erode Corporation, R.N.Pudur, Erode.
- 4 The Inspector of Police, Erode North Police Station, Erode.

+lcc to Mr.M.Jayaprakash Narayanan, Advocate, S.R.No.54962

+lcc to Mr.M.Raja Mathivanan, Advocate, S.R.No.54969

+lcc to the Government Pleader, S.R.No.55419

W.P.No.20863 of 2021
& WMP No.22128 of 2021

PMK(CO)
PM/10/11/2021