



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.03.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.M.SUNDRESH
AND
THE HONOURABLE MRS. JUSTICE S.ANANTHI

W.P.(MD)No.4119 of 2021
and
W.M.P.(MD)No.3320 of 2021
(Through Video Conferencing)

Thangamuthammal

... Petitioner

Vs.

1.The Assistant Divisional Engineer,
Highways and Rural Works (Maintenance)
Radhapuram
Tirunelveli District

2.The Junior Engineer,
Highways
Radhapuram
Tirunelveli District.

... Respondents

PRAYER: Petition is filed under Article 226 of the Constitution of India praying for the issue of a Writ of Certiorari to call for the records relating to the impugned order in கடித.எண்.68/2021/அ1 dated 10.02.2021 of the 1st respondent and to quash the same.

For Petitioner : Mr.J.Ashok
For Respondents : Mr.K.P.Krishnadoss
Special Government Pleader

ORDER

(Order of the Court was made by M.M.SUNDRESH, J.)

The petitioner has come forward to file the present writ petition, which is a second round of litigation, inter alia alleging that the order passed by this Court in W.P.(MD) No.755/2021 dated 20.01.2021 has not been considered in letter and spirit.

2. It is further submitted that the earlier orders passed right from the year 2007 up to the order passed in W.P.(MD) No.4091/2014 dated 07.08.2017 have not been looked into. One more submission has



been made to the effect that under the Tamilnadu Highways Act, 2001 (hereinafter referred to as 'the Act'), it is only the Divisional Engineer, who is competent and in the absence of any power of delegation, the respondent No.1 cannot pass the order.

3. In a similar matter, we directed the learned Special Government Pleader to get instructions on the jurisdiction of the respondent No.1 to pass an order, as per Section 2(13) read with Section 5(2) of the Act, the competent authority is the Divisional Engineer. It is submitted by the learned Special Government Pleader that no instruction is forthcoming.

4. We are inclined to interfere with the order on two grounds, namely, the possible lack of jurisdiction in passing the order and non compliance of the order passed by this Court. We are sorry to note that the respondent No.1 has not understood the order passed. The moment, when the earlier order passed and which has put into under challenge in W.P.(MD) No.896/2021, it will have to be treated as a show cause notice. The reply given by the petitioner ought to be considered, while passing the final order. The respondent No.1 is expected to see as to how the statement made in writing cannot be accepted. Absolutely, no reason has been assigned. This is a total non application of mind on the part of the respondent No.1.

5. Be that as it may, to put an end to the controversy, he once again treat the impugned notice dated 10.02.2021 as a show cause notice and the relevant files will have to be transferred by the respondent No.1 to the Divisional Engineer concerned. The said authority shall pass appropriate orders within four weeks from the date of receipt of the relevant files. Till such time, status quo as on today shall be maintained.

6. The writ petition stands disposed of accordingly. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

RR

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 Divisional Engineer,
Highways and Rural Works
Radhapuram
Tirunelveli.

2.The Assistant Divisional Engineer,
Highways and Rural Works (Maintenance)
Radhapuram
Tirunelveli District

3.The Junior Engineer,
Highways
Radhapuram
Tirunelveli District.

+1 CC to Mr.J.ASHOK, Advocate (SR-8188[F] dated 02/03/2021)

+1 CC to THE SPECIAL GOVERNMENT PLEADER(SR-8417[F] dated 03/03/2021)

Order made in
W.P. (MD)No.4119 of 2021 and
W.M.P. (MD)No.3320 of 2021
Dated: 02.03.2021

ES (CO)
SRS (11/03/2021) 3P : 6C