



Periyachi v. The District Collector

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.06.2021

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P(MD)No.10091 of 2021

and

W.M.P. (MD) .No.7814 of 2021

(Through video conferencing)

Periyachi

... Petitioner

Vs.

1.The District Collector,
Office of the District Collector,
Thanjavur District.

2.The Project Director,
District Rural Development Agency,
Thanjavur.

3.The Block Development officer/Commissioner,
Madukkur Town Panchayat Union,
Pattukottai Taluk,
Thanjavur District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a writ of Mandamus, calling for the records pertaining to the impugned order issued by the second respondent in Na.Ka.No.1515/2017/A4 dated 30.11.2020 and quash the same.

For Petitioner : Mr.B.Jameel Arasu
for M/s.J.Vishnu

For Respondents 1 & 2 : Mr.M.Lingadurai,
Government Advocate(Civil side)

For Respondent No.3 : Mr.R.Raghavendran

ORDER

This writ petition has been filed challenging the proceedings of the second respondent dated 30.11.2020.

2. The case of the petitioner is that the impugned communication has been issued by the second respondent to disburse the amount from the general fund of the Panchayat for the purpose of laying roads under the Tamilnadu Rural Roads Improvement Scheme (TNRRIIS). According to the petitioner, who is the erstwhile Ward



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Union Councillor, such a direction cannot be issued by the second respondent Union unilaterally and the same is opposed to law.

3. The learned counsel for the petitioner submitted that the issue involved in the present writ petition is squarely covered by the earlier judgment of this Court wherein this Court has categorically held that the funds that are allocated for the Panchayat cannot be utilised for the purpose of carrying out road work in the respective villages without the concurrence of the elected body.

4. Heard Mr.B.Jameel Arasu, learned counsel appearing for the petitioner and Mr.M.Lingadurai, learned Government Advocate (Civil side) appearing for the respondents 1 &2 and Mr.R.Raghavendran, learned counsel appearing for the third respondent.

5. This Court in a batch of writ petitions in W.P.(MD).No.9931 of 2020 etc., and W.P.(MD).Nos.14020 of 2020 etc., has held that the general fund belonging to the Panchayat cannot be utilised without the concurrence of the elected body. The impugned communication of the second respondent is liable to be interfered based on the said judgment.

6. In view of the above, the impugned communication of the second respondent in Na.Ka.No.1515/2017/A4 dated 30.11.2020 is hereby quashed. However, it is made clear that wherever the work orders have already been issued, work can continue and this order will not stand in the way of completion of the work which had already commenced. That apart, in all cases, where the work is under progress or it has already been completed, the necessary payment has to be made. This direction is given considering the fact that a third party who has already undertaken the work should not be deprived of being paid what is due and payable to him.

7. The approval for the payment shall be placed before the elected council and on their sanction, the amount shall be paid. The elected council shall take a decision within a period of four weeks as and when any sanction is being sought for the payment for the work that has already been undertaken.



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8. This writ petition is accordingly allowed. No Costs. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PJL

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,
Office of the District Collector,
Thanjavur District.

2.The Project Director,
District Rural Development Agency,
Thanjavur.

3.The Block Development officer/Commissioner,
Madukkur Town Panchayat Union,
Pattukottai Taluk,
Thanjavur District.

+1 CC to M/s.SPL GP (SR-20046[F] dated 23/06/2021)

W.P (MD) No.10091 of 2021

22.06.2021

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MGJ(14.07.2021) 3P 5C