



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.01.2021

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.P. (MD)No.11288 of 2020

WEB COPY

Guru. Saravanan

... Petitioner

Vs.

1.The Secretary to the Government,
Ministry of Railways,
Union of India.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The General Manager,
Southern Railways,
Chennai Division,
Chennai.

4.The Divisional Railway Manager,
Southern Railways (Madurai Division),
DRM Office,
Madurai.

... Respondents

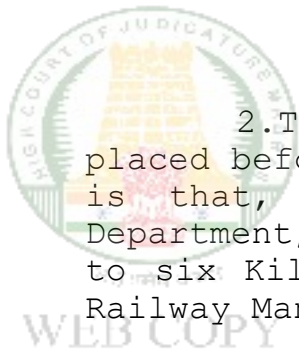
Prayer : Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, directing the fourth respondent to consider the petitioner's representation dated 20.07.2020 and thereby, open the manned railway gate bearing No.468 until an alternative subway to cross the railway gate was constructed.

For Petitioner	:	Mr.P.R.Prithiviraj
For R1, R3 & R4	:	Mr.S.Manohar Standing Counsel
For R2	:	Mr.K.P.Krishadoss Special Government Pleader

ORDER

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

This Public Interest Litigation has been filed by the petitioner seeking a Writ of Mandamus, directing respondent No.4 to consider the representation, dated 28.07.2020, and thereafter, open the manned Railway Gate, bearing No.468, till a sub-way is constructed.



2.The sum and substance of the grievance of the petitioner as placed before us by the learned counsel appearing for the petitioner is that, in view of over Bridge constructed by the Railway Department, the residents of that area are made to travel about five to six Kilometers. Therefore, till a sub-way is constructed, the Railway Manned Crossing has to be opened.

3.In the counter affidavit filed by respondent Nos.1, 3 and 4, the following statements have been made:

''5.It is respectfully submitted that the erstwhile manned level crossing Gate No.468 at Railway KM 571 / 100 - 200 between Sudiyr - Paramakudi Stations, is connecting the road to Madurai to Paramakudi on the way of Kamuthakudi Village. During the year 2016, the NHAI had proposed for construction of road over Bridge over the erstwhile level crossing Gate No.468 for widening of existed road into four lane project of NH 87 between Madurai - Rameswaram - Dhanuskodi. As agreed with NHAI by the Railways, the road over Bridge was constructed over the level crossing Gate No.468 by sharing the cost of construction of ROB within the Railway boundary. Now the road over Bridge work was completed during the year 2019 and commissioned on 22.02.2020 for road traffic by the NHAI. In as far as the manned level crossing Gate No.468 concerned, is closed out rightly in order to avoid trespass over the Railway rack as agreed in the proposal submitted by Government of Tamil Nadu, vide Letter No.4225/HQ2/2010-7, dated 08.09.2010.

6.It is respectfully submitted that the process for construction of road over Bridge over this level crossing in view of proposed four lane project of NH 87 from Madurai to Dhanuskodi by National Highways Authority with help of State Government was initiated from the year 2010. After steps taken for removal of regulatory impediments like land acquisition, environmental forest clearance, approval for GAD, State Government support agreement, approval for shifting of Railway utilities, power distribution, water supply, sewerage and the Society for affordable redressal of disputes by the NHAI by means of State Governments, the construction of road over Bridge was started from the year 2016 by the Railways and the entire phase of four lane work was completed during the year 2018 and there has been no protest from the petitioner.''

4.From the above, it is clear that the Railway Over Bridge has already been constructed. It is also a policy decision, which the Railway Department has made. Opening the Railway Crossing, which was being operated manually, has got its own risks. Therefore, the only remedy open to is to direct respondent Nos.1, 3 and 4 to consider the construction of sub-way.



5.It appears that for the aforesaid act, the role of the State Government is important. We may note in this connection, the District Collector, Ramanathapuram District, viz., respondent No.2 himself has made a request to the Railway Authorities in the year 2018, followed by another Communication, dated 28.07.2020, requesting to open the Railway Crossing.

6.From the above, respondent No.2 is also conscious of the difficulties that are being faced by the general public of that area. In such view of the matter, respondent No.2 is directed to interact with the other respondents for the purpose of construction of sub-way, by facilitating the acquisition proceedings.

7.With the above said observation, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

smn2

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 Secretary to the Government,
Ministry of Railways,
Union of India.

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The General Manager,
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Chennai Division,
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4.The Divisional Railway Manager,
Southern Railways (Madurai Division),
DRM Office,
Madurai.

<https://hcservices.ecourts.gov.in/hcservices/>



+1 CC to M/s.SPL GP (SR-1158[F] dated 19/01/2021)

+1 CC to M/s.S.SRINIVASA RAGHAVAN, Advocate (SR-1025[F] dated 19/01/2021)

+1 CC to M/s.S.MANOHAR, Advocate (SR-884[F] dated 18/01/2021)

W.P. (MD) No.11288 of 2020
11.01.2021

SSS (CO)
KB (25.01.2021) 4P 8C