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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

and

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.13847 of 2020

K.K.Ramesh
S/o.Kuppusamy Iyer,
No.26A, Old Mahalipatti Road,
Madurai 625 001.

... Petitioner

Vs

1.The Union of India,
Rep. by its Principal Secretary to Prime Minister,
Prime Minister Office,
South Block, Raisina Hill,
New Delhi - 110 001.

2.The Union of India,
Rep. by its Principal Secretary,
Ministry of Finance,
South Block, New Delhi - 110 001.

3.Union of India,
Rep. by its Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, C-Wing,
New Delhi - 110001.

4.All India Institute of Medical Sciences,
Rep. by its Director,
Ansari Nagar,
New Delhi - 110 029.

5.The State of Tamil Nadu,
Rep. By its Principal Secretary,
Health Department, Fort St.George,
Secretariat, Chennai - 600 009.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India for issuance of Writ of Mandamus directing the 1st Respondent to instruct the 2nd and 3rd Respondent to speed up the construction work for the establishment of All India Institute of Medical Science (AIIMS) Hospital at Thoppur in Madurai Tamil Nadu, to allot the funds without delay to construct All India Institute of Medical Science (AIIMS) Hospital at Thoppur in Madurai Tamil Nadu by considering the petitioner's representation dated 02.09.2020.



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For Petitioner : Mr.K.K.Ramesh
(Party-in-person)

For Respondents : Mrs.Victoria Gowri,
Assistant Solicitor General
Assisted by Mr.Jayas Singh,
Central Government Standing
Counsel (for R1 to R4)

Ms.J.Padmavathi Devi,
Special Government Pleader (for R5)

O R D E R

(Order of the Court was delivered by **N.KIRUBAKARAN, J**)

The Petitioner has been filing Writ Petition after Writ Petition with a bonafide intention of establishing AIIMS at Madurai and this is sixth in his series.

2.The Petitioner after coming to know that the Central Government is planning to establish AIIMS hospital in various parts of India, approached this Court by way of Writ Petition in W.P.(MD). No.8014 of 2015 seeking Writ of Mandamus to establish AIIMS in Madurai District by considering his representation dated 06.04.2015. The said Writ Petition was disposed of on 19.06.2015 observing that the Government of Tamil Nadu has already taken up the issue and with a direction to 1st and 2nd Respondents therein to take an appropriate decision as expeditiously as possible. Thereafter, there were demands from various parts of Tamil Nadu for establishment of AIIMS. Therefore, the Petitioner sent a representation on 10.05.2017 in detail, asking the Respondents to establish AIIMS at Madurai District and filed another Writ Petition in W.P.(MD).No.11444 of 2017 and the same was disposed of by order dated 02.08.2017 along with another W.P.(MD).No.6447 of 2017 filed by one Mr.R.K.Baskar to declare the proposed location of the AIIMS Hospital to be established in Tamil Nadu, by observing that the State Government had suggested five locations and there was no specific recommendation for a particular location and the Special Committee constituted would visit the sites and based on the parameters, the location would be identified and the site was expected to be finalised expeditiously on or before 31.12.2017.

3.Contending that the order dated 02.08.2017 passed in W.P.No.11444 of 2017 has not been complied with, Contempt Petition in Cont.P.No.49 of 2018 was filed by the Petitioner, in which on 20.06.2018, the Ministry of Health and Family Welfare, Government of India vide communication dated 19.06.2018 informed about the approval of a site at Thoppur in Madurai District for establishment of new AIIMS hospital at Madurai. Recording the above communication dated 19.06.2018, the Contempt Petition was closed.



4.Since the Central Government took four years for taking a decision to choose a place for establishment of AIIMS hospital, to speed up the construction work of AIIMS hospital, the Petitioner sent a representation on 12.07.2018. Thereafter he filed a Writ Petition in W.P.No.16088 of 2018 which was disposed of on 24.07.2018 with an observation that the construction of AIIMS hospital at Madurai would be completed as early as possible without undue delay.

5.Since the Parliamentary election was approaching, to speed up the announcement of the tender for constructing the AIIMS Hospital at Thoppur in Madurai, the Petitioner gave representation on 01.10.2018 and subsequently, filed Writ Petition in W.P.No.21099 of 2018 seeking direction to the Union Government to publish establishment and approval of AIIMS Hospital at Thoppur in Government gazette. The said Petition was disposed of on 06.12.2018 recording that, the proposal for establishment of hospital would be considered by the Union Government, since the Central Government has already taken necessary steps for establishing AIIMS Hospital and hoped that the AIIMS Hospital would be a reality in the near future.

6.Meanwhile the Central Government published a gazette on 03.07.2020, recording the establishment of AIIMS Hospital at Thoppur. Since only compound wall has been constructed and no other progress has been made, even though the Union Government stated that the hospital will be constructed within a period of 45 months, the Petitioner sent a detailed representation on 02.09.2020. Since no action has been taken, the Petitioner has come before this Court seeking the following relief:

"directing the 1st Respondent to instruct the 2nd and 3rd Respondent to speed up the construction work for the establishment of All India Institute of Medical Science (AIIMS) Hospital at Thoppur in Madurai Tamil Nadu, to allot the funds without delay to construct All India Institute of Medical Science (AIIMS) Hospital at Thoppur in Madurai Tamil Nadu by considering the petitioner's representation dated 02.09.2020."

7.Heard Mr.K.K.Ramesh, Party-in-person, Mrs.Victoria Gowri, learned Assistant Solicitor General, Assisted by Mr.Jayasingh, Central Government Standing Counsel appearing on behalf of R1 to R4 and Ms.J.Padmavathi Devi, learned Special Government Pleader appearing on behalf of R5.

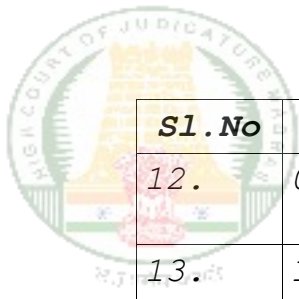
8.The Petitioner has to be appreciated for his consistent efforts to establish AIIMS Hospital in Madurai District by filing Writ Petition after Writ Petition. In a way, he has compelled the Central Government for obtaining orders from this Court for locating AIIMS Hospital at Madurai and also publication of same in the



Government gazette on 03.07.2020. The chronology of events filed by the State Government is as hereunder:

AIIMS HOSPITAL, MADURAI - DATES AND EVENTS

Sl.No	DATES	EVENTS
1.	19.06.2014	Communication from Health and Family Welfare, Government of India to identify suitable land to locate AIIMS Hospital in z-28016/158/2014-SSH.
2.	20.07.2014	Announcement by Hon'ble CM under Rule 110.
3.	05.09.2014	Communication from Health Secretary vide DO No.21284/MCA/2014
4.	09.10.2014	200 acres of land in a contiguous block identified in S.Nos.12/2 etc. of K.Pudupatti (Thoppur) village, Tirupparankundram taluk and intimated to Government vide Roc. 45256/2014.
5.	19.06.2018	Communication from Govt.of India vide Lr.No.28014/201/SSH to ensure the following five conditions viz. i) connectivity with 4-way; ii)water supply; iii)free from encumbrance; iv) EB; and v)agreement to be entered with IOC who is running a underground pipe line.
7.	22.06.2018	Joint inspection by the Collector with Govt. of India and sent minutes of the meeting to Govt. of India.
8.	27.07.2018	Intimation from GOI about entrusting the construction to HITES. HITES was directed to prepare draft MoA vide GOI z-28016/105/2018-PMSSY-III.
9.	09.10.2018	Joint inspection made by Collector with HITES - Submission of Technical report to Govt. of India by the Collector - Formal handing over of the site of HITES who commenced construction of compound wall.
10.	14.12.2018	After the process, the Government of Tamil Nadu was informed that an extent of 222.25 acres is available for this purpose free from encumbrance.
11.	27.01.2019	Laying of Foundation Stone by Hon'ble Prime Minister who visited Madurai.



Sl.No	DATES	EVENTS
12.	07.06.2019	Request by the Government of India to accord enter upon permission.
13.	14.07.2019	Proposals sent to CLA seeking permission to transfer the above land vide 45256/2014.
14.	09.09.2019	Order passed by the Collector in according enter upon permission to the Secretary, Health, Government of India for entering upon 200 acres of land vide 45256/2014.
15.	10.10.2019	Minutes sent by Govt. Of India seeking additional extent of 22.49 acres.
16.	28.11.2019	Additional land of 22.49 acres identified and proposals sent to the CLA.
17.	20.02.2020	Order passed granting enter upon permission to GOI regarding the additional land of 22.49 acres.
18.	27.08.2020	Communication received from GOI to Govt.of Tamil Nadu to hand over the above land.
19.	27.10.2020	Communication received from Health Secretary to send handover certificate to Government of India.
20.	03.11.2020	Hand over certificate duly prepared and sent to Government of India for signing and returning the same.
21.	06.11.2020	Despatch of letter by speed with -ACK available.

9.Though there are certain difficulties with regard to handing over the entire parcel of land identified due to passing of IOCL gas pipeline in 24 acres of land, subsequently, the land to an extent of 90.07.02 hectare (222.47 Acre) in K.Pudupatti Revenue Village of Thiruparankundram Taluk was identified in S.No.12/2 etc., and permission to enter upon was granted to Government of India, PMSSY Division, New Delhi, through District Collector's order dated 09.09.2019 and 14.02.2020. Handing over certificate of the land was also prepared and sent to the Government of India for signing on 03.11.2020. Therefore, the work of the State Government in identifying and handing over the land to an extent of 222.47 Acre was completed as early as on 02.11.2020. The aforesaid identification and handing over of land is a substantial development for the establishment of AIIMS at Thoppur.



10.From the status note filed by the Assistant Solicitor General, it is evident that,

(i)the cabinet approved the establishment of new AIIMS Hospital at Thoppur in Madurai District at a cost of Rs.1264 crores on 17.12.2018.

(ii)The Ministry of Health and Family Welfare appointed M/s.HITES as the executing agency to carry out the pre-investment work and the pre-investment work is in advanced stage.An amount of Rs.7.89 crores has been released by the Ministry to the Executing Agency for carrying out the pre-investment work.

(iv)Approval of the cabinet was sought and obtained for taking up the project under Extra Budgetary Resources (EBR) funding through JICA.

(v)Approval of the cabinet was also obtained for allowing escalation over and above the 20% ceiling and for allowing time over run, in case of availing loan from JICA.

As far as funding of the project is concerned, it is stated as follows:

(i)It was proposed to be taken up in the rolling plan for Japan International Cooperation Agency (JICA) funding in 2018-19, after JICA authorities have shown interest for financing the project.

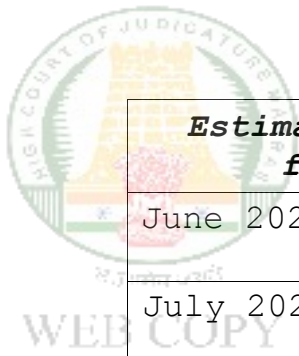
(ii)The Ministry of Finance through O.M. Dated 18.09.2018 addressed the Department of Economic Affairs, Government of India MoH & FW has forwarded a duly filled in proforma for preparation of preliminary project report for bilateral financial cooperation to avail JICA funding for setting up of new AIIMS in Madurai with a request to include the same in the rolling plan and process further.

(iii)An Aide Memoire on the Mission for the Preparatory Survey on the Project for setting up of AIIMS Madurai dated 25.06.2019 signed between MoH&FW and JICA.

(iv)The 1st Fact Finding Team visited and held meeting and submitted their report and one to one meeting is going on with various stakeholders.

(v)The time frame towards formalization of loan agreement indicated by JICA and current progress on the AIIMS Madurai project is given below:

<i>Estimated time frame</i>	<i>Event/Activity</i>
February 2020	Commencement of Preparatory Survey



<i>Estimated time frame</i>	<i>Event/Activity</i>
June 2020	Submission of final report for the preparatory survey
July 2020	Appraisal Mission (Finalize and agree on Minutes of Discussions)
December 2020	Signing of loan agreement (L/A) subject to approval to both governments.

(vi)The loan signing agreement can go beyond December 2020 due to this pandemic situation.

(vii)The next set of meeting with the FACT FINDING MISISION OF JICA representatives would be in November 2020 and signing of loan agreement could be before 31st March 2021. It is informed that loan agreement was signed with JICA on 26.03.2021 and the process of appointment of a project consultant is underway.

11.From the above, it could be understood that though progress has been made with regard to establishment of AIIMS at Madurai, it is not going in the expected speed. It is stated that other proposals for establishment of AIIMS in various parts of India are progressing well or completed. Though it is stated that construction would be over within a period of 45 months, substantial progress has not been made. Therefore, the Respondents 1 to 3 are directed to expedite the process of appointment of project consultant at the earliest.

12.As rightly pointed out by the Petitioner, for each and every step, the Petitioner has to approach this Court for getting suitable orders for establishment of AIIMS in Madurai. Therefore, this Court expects that without Court orders, appropriate steps would be taken by the Union Government to establish AIIMS at Madurai, at the earliest, preferably within a period of 36 months from the date of receipt of a copy of this order.

13.With the above directions, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

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/ /2021

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Prime Minister,
Union of India,
Prime Minister Office,
South Block, Raisina Hill,
New Delhi - 110 001.

2.The Principal Secretary,
Union of India,
Ministry of Finance,
South Block, New Delhi - 110 001.

3.The Secretary,
Union of India,
Ministry of Health and Family Welfare,
Nirman Bhawan, C-Wing, New Delhi - 110001.

4.The Director,
All India Institute of Medical Sciences,
Ansari Nagar, New Delhi - 110 029.

5.The Principal Secretary,
State of Tamil Nadu,
Health Department, Fort St.George,
Secretariat, Chennai - 600 009.

+1 CC to M/s.K.K.RAMESH, Advocate (SR-26689[F] dated 18/08/2021)

W.P. (MD)No.13847 of 2020

Dated :17.08.2021

RK (07.09.2021) 8P 7C