



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 12.02.2021

Pronounced on : 17.02.2021

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD).No.14651 of 2020

and

WMP(MD).Nos. 12304 and 16510 of 2020

WEB COPY

V.P. Ammavasai

: Petitioner

Vs.

1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N. Road,
Alandur,
Chennai - 600 016.

2.The Deputy Superintendent of Police,
Madurai Division,
Vigilance and Anti Corruption Department,
No.1/165G, Alagarkovil Main Road,
Race Course Colony,
Madurai-625 006.

3.Jeyaraman
4.Saravanan
5.Ranjani

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus directing the respondents 1 and 2 to register the complaint and conduct enquiry and take necessary action against the respondents 3 to 5 herein for abusing their power and creating false estimate report for tender and tried to misappropriate public money to the tune of Rs.10 Lakhs forthwith in accordance with law based on the representation given by the petitioner dated 21-09-2020, within the time stipulated by this Court.

For petitioner : Mr.T. Ayngaran Prabu

For R1 and R2 : Mr. K.K. Ramakrishnan
Additional Public Prosecutor

For R3 and R4 : No appearance

For R5 : Mr.P.R. Prithiviraj



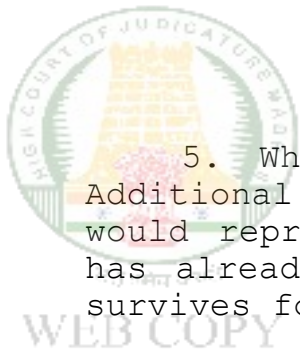
ORDER

This Writ Petition has been filed for the issuance of a Writ of Mandamus directing the respondents 1 and 2 to register a complaint and to conduct enquiry and take action against the respondents 3 to 5 for allegedly abusing their power and creating false estimate report for tender and tried to misappropriate the public money, in accordance with law, based on the representation given by the petitioner dated 21.09.2020 within the time stipulated by this Court.

2. Heard Mr.T. Ayngaran Prabu, learned counsel appearing for the petitioner and Mr. K.K. Ramakrishan learned Additional Public Prosecutor appearing for the respondents 1 and 2 and Mr. P.R. Prithiviraj, learned counsel appearing for the 5th respondent.

3. It is the case of the petitioner that the respondents 3 to 5 are responsible for finding of work to be done, creating of estimate report for that work and bringing it to the tender after passing resolution in the Panchayat Union meeting and for the execution of the same and that the 3rd respondent on the basis of the estimate prepared by the 4th respondent and in support of the 5th respondent floated tender for 18 works to the value of Rs.68,00,000/- that are to be done from the general funds of the Usilampatti Panchayat Union for the period 2020 - 2021 through the proceedings in Na.Ka.No.1127/2020/A2 dated 03.02.2020. The petitioner's further case is that to his shock and surprise, in the notification for tender he found that the work item in S.No.8 providing bore-well with motor and pipeline at Petchiamman Kovilpatty in Nakkalapatty Panchayat at the estimate cost of Rs.5,00,000/- and S.No.10, providing the bore-well with motor and pipeline at Nalluthevanpatti Village at the estimated cost of Rs.5,00,000/- and that in the above said places, already there are bore-well and they are in operative condition.

4. According to the petitioner, previously one of the Counsellor Pandiyammal approached this Court through W.P(MD).No. 9250 of 2020 challenging the tender notification and when the matter came up before this Court, the third respondent withdrew the tender notification floated by him without giving any reason. It is the further case of the petitioner that the respondents 3 to 5 conspired together, abused their power in their public office and created false documents to misappropriate the general fund of Usilampatti Panchayat Union to the tune of Rs.10,00,000/-, that though the petitioner had sent a detailed representation to the respondents 1 and 2 on 21.09.2020, they have not even conducted any preliminary enquiry and that therefore, the petitioner was constrained to file the above petition.



5. When the matter was taken up for hearing, the learned Additional Public Prosecutor appearing for the respondents 1 and 2 would represent that the Vigilance and Anti Corruption Department has already initiated the preliminary enquiry and as such nothing survives for adjudication in this Writ Petition.

6. The learned counsel appearing for the 5th respondent would contend that the tender notification itself has already been cancelled and as such the Writ Petition has become infructuous.

7. As rightly contended by the learned counsel appearing for the petitioner, the petitioner's writ petition prayer is not confined to the tender notification alone and the petitioner has sought for direction for taking necessary action against the respondents 3 to 5 for abusing their power and creating false estimate report for tender and thereby, tried to misappropriate public money to the tune of Rs.10,00,000/-. Hence, the above contention of the 5th respondent that the Writ Petition has become infructuous is devoid of merits and is liable for rejection.

8. The learned Additional Public Prosecutor has submitted a copy of the Preliminary Enquiry Registration Report in PROFORMA - 7 and whereunder it is evident that the preliminary enquiry in PE.9/2021/RDP/MU, dated 27.01.2021 was registered on 02.02.2021 and that the respondents 3 and 4 have been shown as the accused officers and listing out the witnesses to be contacted and the documents to be scrutinized. It is further evident from the said report that origin of the preliminary enquiry was on the basis of the the petition filed by the petitioner dated 21.09.2020 and that the Director of Vigilance and Anti Corruption Department, Chennai has ordered to register and to conduct preliminary enquiry against the said accused officers vide memorandum in No. PE9/2021/RDP/MU, dated 27.01.2021 and accordingly, this preliminary enquiry has been registered in PE.9/2021/RDP/MU at Madurai V & AC Detachment in PE Serial No.04/2020-21, dated 02.02.2021.

9. At this juncture, the learned counsel appearing for the petitioner would contend that a time frame has to be fixed for the completion of the enquiry.

10. Immediately the learned Additional Public Prosecutor would submit that since the Department has already ordered for preliminary enquiry, there is no need or necessity to fix any time limit. He would further submit that generally in the Vigilance and Anti Corruption cases, time limits are not fixed.

11. Considering the facts and circumstances and also nature of the charges levelled, it would not appropriate for this Court to fix any time limit for completing the investigation. But, at the same time, the respondents 1 and 2 are to be directed to



expedite the enquiry. Since the preliminary enquiry has already been ordered and registered, the question of granting the prayer sought for by the petitioner does not arise. But, at the same time, the respondents 1 and 2 are hereby directed to complete the investigation as expeditiously as possible.

WEB COPY

12. With the above observation and direction, this Writ Petition is dismissed. No costs. Consequently, the connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Trp

To

1.The Director,
Vigilance and Anti Corruption Department,
No.293, M.K.N. Road,
Alandur,
Chennai - 600 016.

2.The Deputy Superintendent of Police,
Madurai Division,
Vigilance and Anti Corruption Department,
No.1/165G, Alagarkovil Main Road,
Race Course Colony,
Madurai.

+1 CC to Mr.T.AYNGARAPRABHU, Advocate (SR-6327[F] dated 19/02/2021)

order made in
W.P(MD).No.14651 of 2020 and
WMP(MD).Nos. 12304 and 16510 of 2020
17.02.2021

VB (02.03.2021) 4P 4C