



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.01.2021

CORAM :

**The Hon'ble Mr.SANJIB BANERJEE, THE CHIEF JUSTICE
AND
The Hon'ble Mr.JUSTICE M.M.SUNDRESH**

W.P. (MD) Nos.14972, 14974, 15042 and 16772 of 2020
and

WMP (MD) .Nos.12608 to 12611,12603,13327,14010, 12681,12682
and 12685 of 2020

W.P (MD) .No.14972 of 2020

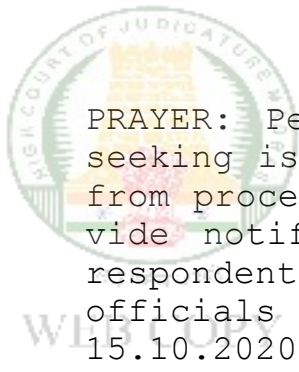
Mr.S.Rajendran

.. Petitioner

Vs

1. The Chief Secretary to Government,
Government of Tamilnadu,
St.George Fort, Chennai.
2. The Principal Secretary to Government,
Highways Department,
St.George Fort, Chennai.
3. The Chief Engineer,
Department of Highways,
Sardar Patel Road,
Guinty, Chennai.
4. The Commissioner,
Department of Social Welfare,
Panagal Maligai Building, Jeenis Road,
Saidapet, Chennai.
5. The Director of Panchayatraj,
Directorate of Rural Development and Panchayatraj,
Panagal Building, Chennai 600 015.
6. The District Collector,
Tenkasi District, Tenkasi.
7. The Superintending Engineer (Highways),
Construction and Maintenance,
Tirunelveli Circle, Tirunelveli.

.. Respondents



PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, forbearing the respondents from processing the tender for package Nos.10,17, and 18 mentioned vide notification dated 29.09.2020 and consequently, direct the respondents 1 to 6 to take necessary action against the erring officials based on the petitioner's representation dated 15.10.2020.

For Petitioner : Mr.D.Venkatesh

For respondents : Mr.S.R.Rajagopal,
Additional Advocate General,
assisted by
Mr.K.P.Krishnadoss,
Special Government Pleader

W.P (MD) .No.14974 of 2020

P.Siva padmanabhan

.. Petitioner

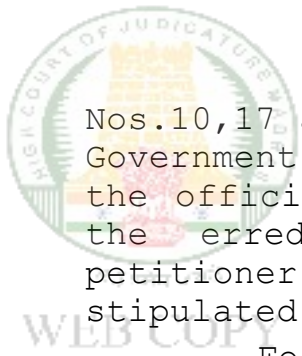
Vs

1. The Government of Tamilnadu,
Rep. by its Chief Secretary,
St.George Fort, Chennai 600 009.
2. The Additional Chief Secretary,
Highways and Minor Ports Department,
Government of Tamilnadu,
Fort St.George, Chennai 600 009.
3. The Director,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai 600 025.
4. The Superintending Engineer,
Highways Department.
Palayamkottai, Tirunelveli.
5. The District Collector,
Tenkasi District, Tenkasi.

6. N.Ravichandran

.. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorarified Mandamus, call for the tender notification of the 4th respondent in tender notice No.12/2020/MS/HSO, dated 29.09.2020, with regard to packages



Nos.10,17 and 18 and quash the same as deception and deceiving the Government as well as the general public and consequently direct the official respondents to take appropriate legal action against the errred officials and the 6th respondent based on the petitioner's representation dated 09.10.2020, within the stipulated period by this Hon'ble Court.

For Petitioner : Mr.Ananth C.Rajesh

For respondents 1-5 : Mr.S.R.Rajagopal,
Additional Advocate General,
assisted by
Mr.K.P.Krishnadoss,
Special Government Pleader
Mr.V.Kathirvelu,
Senior Counsel
assisted by
Mr.K.Prabhu for R6

W.P (MD) .No.15042 of 2020

A.Ramalingam .. Petitioner

Vs

1. The Secretary to the Government,
Highways Department (Roads),
Fort St.George, Chennai 9.
 2. The Chief Engineer (Highways),
Construction and Maintenance Department,
Madurai.
 3. The Superintending Engineer (Highways),
Construction and Maintenance,
Tirunelveli Circle, Tirunelveli.
 4. The Divisional Engineer (Highways),
Tenkasi Division, Tenkasi.
 5. The Assistant Divisional Engineer (Highways),
Tenkasi Sub-Division, Tenkasi.
 6. The Assistant Divisional Engineer (Highways),
Sankarankovil Sub-Division,
Sankarankovil.
- .. Respondents



PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Certiorari, to call for the records relating to the Tender notice in No.12/2020-21/HDO, dated 29.09.2020, issued by the 3rd respondent and cancel the tender notification in respect of the package Nos.10 and 17.

For Petitioner : Mr.A.C.Vinayagarajan

For respondents 1-6 : Mr.S.R.Rajagopal,
Additional Advocate General,
assisted by
Mr.K.P.Krishnadoss,
Special Government Pleader

W.P (MD) .No.16772 of 2020

L.Muthukumar .. Petitioner

Vs

1. The Principal Secretary,
Highways Department,
Construction and Maintenance,
Secretariat, Chennai.
2. The Superintending Engineer,
Construction and Maintenance,
Highways Department, A.R Line,
Palayamkottai, Tirunelveli Circle.

3. The Divisional Engineer,
Construction and Maintenance,
Highways Department, Tenkasi District. .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the 1st respondent to hold an enquiry in connection with the irregularities and illegalities in doing the road and retaining wall works in advance at the places intended to be brought in as works to be awarded by the 2nd respondent vide tender notice No.12/2020-21/HDO, dated 29.09.2020, and consequently order cancellation of all such tender process by taking appropriate action as against the errant responsible for such malpractice as expeditiously as possible within the stipulated as prescribed by this Hon'ble Court on the strength of the petitioner's representation dated 02.11.2020.

For Petitioner : Mr.R.Niresk Kumar



For respondents 1-3

: Mr.S.R.Rajagopal,
Additional Advocate General,
assisted by
Mr.K.P.Krishnadoss,
Special Government Pleader

WEB COPY

COMMON ORDER

[Order of the Court was made by **M.M. SUNDRESH, J.**]

In view of the commonality of the issue involved in all these writ petitions in the form of Public Interest Litigation, they have been taken up together and disposed of by this common order.

2. These writ petitions have been filed by the writ petitioners on the common premise that without formal conclusion of the tenders, work has been allotted to the private contractors in collusion with the officials of the respondents.

3. Tenders were called for vide tender notice No.12/2020-21/HDO, dated 29.09.2020 for the package Nos.9, 10, 17 and 18, of which we are concerned with package Nos.10,17 and 18. Before the award of the tenders, it appears, as alleged by the petitioners, work was allotted to the private contractors.

4. On the aforesaid factum, being pointed out by the petitioners, the official respondents on inspection took action against erring officials by suspending them and cancelling the tenders issued to the private contractors in respect to the package Nos.10,17 and 18. Thereafter, re-tenders have been called for. The following is the status report filed by the respondent No.2.

"2. I humbly submit that the tender for the following three packages 10,17 & 18 was cancelled as the tender documents are not in order and retender was called vide tender Notice No.12/2020-21/HDO, dated 29.09.2020. Tender was received on 27.10.2020.

3. I humbly submit that the Petitioner had alleged that certain works have been completed for the works included in Packages 10,17 and 18 for which tenders have been invited by Superintending Engineer (H), Construction and Maintenance, Tirunelveli on 27.10.2020. Opening of tenders for the packages 10,17 and 18 had been kept in abeyance as assured before the Hon'ble Madurai Bench of



Madras High Court on 29.10.2020 in W.P(MD).No.14972 of 2020 filed by Thiru.S.Rajendran.

4. I humbly submit that in the meantime, Respondent have obtained a report from the officials who were incharge of the places for which the works have been allegedly commenced and recommended to take disciplinary action on the officials who have not brought the facts to be respondent and also have not stopped the works which are being tendered. Based on the recommendations, Government have placed all the officers who had involved in the above allegations under suspension as per Government orders Highways & Minor Ports (HR2) department G.O(2D)No.39, G.O(2D)No.40, G.O(2D)No.41, G.O(2D)No.42, G.O(2D) No.43, dated:03.11.2020.

5. I humbly submit that the Package 10 consists of 7 main works, 2 culvert works and 4 retaining wall works to a total of 13 works. The contract value is 510.92 Lakhs. Package 17 consists of 8 main works, 2 minor bridge works, 1 culvert work, 1 drain work and 6 retaining wall works to a total of 18 works. The contract value of the Package is 693.16 Lakhs. Package 18 consists of 7 main works, 5 culvert works, 2 paver block works and 1 retaining wall work to a total of 15 works and the contract value is 605.04 Lakhs.

6. I humbly submit that the Superintending Engineer (H) Construction and Maintenance, Tirunelveli have inspected the alleged works which were included in Package 10,17,18 as stated above and being tendered, and it is to be mentioned that few works have been commenced but not completed in Package 10,17 and 18 due to defective reasons and for safety of Public usage, but agreement have not been executed for the above works.

7. I humbly submit that the petitioners complaint that 75% of the works of packages 10,17 & 18 were already completed but it is not true only few works which has been commenced and stopped."

5. Learned Counsel appearing for the petitioners submitted that the aforesaid activities were carried out with the collusion of the officials. A mere suspension orders passed against the officials would not suffice. But, for the writ petitions filed, preceded by the representations made by the petitioners, the Superintending Engineer, Construction and Maintenance, Highways Department, Tirunelveli, would not have taken the aforesaid action. Same action will have to be extended to package No.9 as well, though not being the subject matter of the writ petitions filed. Therefore, appropriate orders will have to be passed in this regard.



6. Learned Additional Advocate General appearing for the State submitted that the erring officials were proceeded with departmentally by passing suspension orders. A mistake committed has been rectified by the proposal to have re-tender and the action to be taken would be extended to those contractors who were given works without finalization of the tenders.

7. In view of the aforesaid submissions made by the learned Additional Advocate General, nothing further requires to be adjudicated in these writ petitions. However, the respondent No.2 is directed to look into the allegations made in the affidavits filed in support of these writ petitions that even for package No.9, work was given without finalization of the tender and if that is the case, we expect the Superintending Engineer, Construction and Maintenance, Highways Department, Tirunelveli, to take appropriate action for the aforesaid package also as there cannot be any difference between the illegal action on the part of the officials, who allowed the work to go on without finalization of tenders. As against the contractors, who did the work with the connivance of the officials, the Superintending Engineer shall make sure that they shall not be rewarded and adequate action is taken against them as well.

These Writ Petitions are disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CRL.SIDE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sj/pkn

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 Chief Secretary to Government,
Government of Tamilnadu,
St.George Fort, Chennai.
2. The Principal Secretary to Government,
Highways Department,
St.George Fort, Chennai.
3. The Chief Engineer,
Department of Highways,
Sardar Patel Road,
Guinty, Chennai.
4. The Commissioner,
Department of Social Welfare,
Panagal Maligai Building, Jeenis Road,
Saidapet, Chennai.
5. The Director of Panchayatraj,
Directorate of Rural Development and Panchayatraj,
Panagal Building, Chennai 600 015.
6. The District Collector,
Tenkasi District, Tenkasi.
7. The Superintending Engineer (Highways),
Construction and Maintenance,
Tirunelveli Circle, Tirunelveli.
8. The Additional Chief Secretary,
Highways and Minor Ports Department,
Government of Tamilnadu,
Fort St.George, Chennai 600 009.
9. The Director,
Highways Department,
76, Sardar Patel Road,
Guindy, Chennai 600 025.
10. The Divisional Engineer (Highways),
Tenkasi Division, Tenkasi.
11. The Assistant Divisional Engineer (Highways),
Tenkasi Sub-Division, Tenkasi.



12. The Assistant Divisional Engineer (Highways),
Sankarankovil Sub-Division,
Sankarankovil.

13. The Chief Engineer (Highways),
Construction and Maintenance Department,
Madurai.

+1 cc to Mr.Ananth C.Rajesh , Advocate SR.No.1074

+1 cc to Mr.K.Prabhu , Advocate SR.No.1205

+1 cc to The Special Government Pleader Sr.No.1092

W.P.(MD) Nos.14972, 14974, 15042 and 16772 of 2020
18.01.2021

KM (03.02.2021) P 17C