



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE **N.KIRUBAKARAN**

AND

THE HONOURABLE MRS.JUSTICE **B.PUGALENDHI**

W.A. (MD) No.1087 of 2020

and

C.M.P. (MD) No.5917 of 2020

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

2.The Executive Engineer,
Sarugani Water Resource Division,
Public Works Department,
Sivagangai,
Sivagangai District.

3.The Additional Executive Engineer,
Water Resources / Public Works Department,
Manamadurai,
Sivagangai District.

4.The District Registrar,
Office of the District Registrar,
Sivagangai,
Sivagangai District.

: Appellants

Vs.

Gopalakrishnan

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent as against the order dated 17.09.2020 made in W.P.(MD) No.9015 of 2020.

Prayer in WP(MD). 9015/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a writ of Mandamus, forbearing the 4th respondent herein from in any manner registering the farmers association in respect of the Kattikulam Kanmoi situated at kattikulam, Manamadurai Taluk, Sivagangai District without conducting the elections and consequently directing the first respondent herein to conduct the elections of the farmers association in accordance with law and within the stipulated time.



For Appellants : Mrs.J.Padmavathi Devi
Special Government Pleader

JUDGMENT

(Judgment of the Court was delivered by **B.PUGALENDHI, J.**)

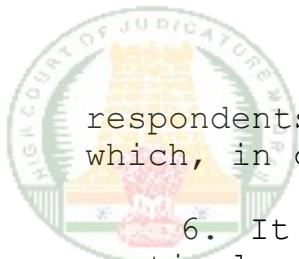
This writ appeal is directed against the order passed by the learned Single Judge in W.P.(MD)No.9015 of 2020, dated 17.09.2020, whereby and whereunder, the learned Single Judge has held that the Public Works Department have to award the kudimaramathu works only in favour of the Farmers' Organisation constituted under Section 4 of the Tamil Nadu Act 7 of 2001. The learned Single Judge further directed the District Collector, Sivagangai, to take immediate action for constituting the Managing Committee under Section 5 of the said Act.

2. The learned Special Government Pleader appearing for the appellants would submit that as on the date of disposal of the writ petition, the society has already been registered and they have been allotted the work and work has also commenced. Therefore, nothing survived for adjudication even at that point of time itself.

3. She would further submit that even prior to the Tamil Nadu Farmers' Management of Irrigation Systems Act, 2000 (Act 7 of 2001) [hereinafter referred to as 'the Act'] coming into force, the Government had taken the task of kudimaramathu and vide Government Order in G.O.Ms.No.62, Public Works Department, dated 30.04.1975, the irrigation works including kudimaramathu was directed to be given to the group of Ayacutdars. As per Section 4 of the Act, Water Users Association, ie., an association of users of water of the area, nothing but Ayacutdars of the area, as approved by the competent authority, has to be constituted. In this case, 61 Ayacutdars have formed an association on 14.08.2020 and elected one C.Ramakrishnan as the President of the society. The said society was also duly registered with the District Registrar under the Tamil Nadu Societies Registration Act. Therefore, the work was allotted to the above registered body of the Ayacutdars and the work was also commenced on 15.08.2020. While so, the learned Single Judge has passed the impugned order, that too, in the absence of the said association, in whose favour, work order has been issued.

4. Heard the learned Special Government Pleader appearing for the appellants.

5. The writ petition was moved by one Gopalakrishnan, an Ayacutdar, on 04.08.2020 and it came up for admission on 07.08.2020. It appears that on the said date itself, the appellants herein have taken notice. While so, when the Writ Court has seized-off the matter, it appears that an association was formed and work order was also issued on 15.08.2020, in a hurried manner. In such view of the matter, the learned Single Judge has held that the appellants /



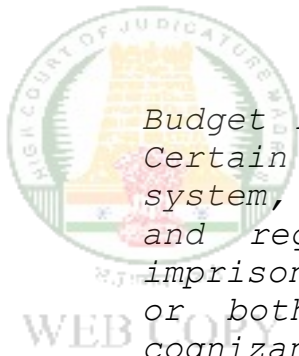
respondents will have to abide by the outcome of the writ petition, which, in our opinion, does not warrant any interference.

6. It is a settled position that when the Statute requires a particular act to be done in a particular manner, it has to be done in that manner alone and not in any another way. When the Tamil Nadu Act 7 of 2001 prescribes certain mechanism for the formation of the Association and for execution of the kudimaramathu work in a transparent manner, the authorities are not justified in awarding the kudimaramathu work to an Association registered under the Tamil Nadu Societies Registration Act, 1975. Therefore, we do not find any merit in this writ appeal.

7. In fact, this Division Bench had an occasion to elaborately discuss the very same issue in W.P.(MD)No.15633 of 2020, dated 23.12.2020 and for better appreciation, the following observations are extracted:

"14.As rightly pointed out by the learned Counsel for the petitioner the Government with an object to create a sense of ownership of irrigation system in the minds of the farmers and to ensure the improved operation and management of irrigation system with the involvement and participation of the farmers in the operation and maintenance of irrigation systems enacted the Tamil Nadu Farmers Management of Irrigation Systems Act, 2000.

15.This Act enables to create a sense of ownership of irrigation systems in the minds of the farmers and to ensure improved operations and maintenance of irrigation system due to involvement of farmers. The farmers' Organisations will be constituted in three tiers, i.e., 'Water Users Association' at the primary level consisting of all the water users, as constituted under Section 4 of the Act; 'Distributary Committee' at Secondary level, as constituted under Section 10. The Government may also constitute an Apex Committee for the whole State under Section 12 of the Act. The said Apex Committee shall have powers to lay down policies and guidelines for effective implementation of the said Act. The Farmers' Organisations at all the three levels would have an elected Managing Committees. By enacting this Act, the operation and maintenance of branch canals and distribution system of irrigation would be transferred to the Farmers' Organisations. The functions of the Water Users Association, Distributary Committee and Project Committee have been specified in Sections 22, 23 and 24 of the Act respectively. Section 25 of the Act empowers the Farmers' Organisations to levy and collect fees from every water user for achieving the object of the said organisation and performing its function. The Funds of Farmers' Organisations have been specified in



Budget have been specified in Sections 27 to 31 of the Act. Certain activities, namely, damages caused to the irrigation system, making changes in the given water supply, obstruction and regulations, etc., are offences and punishable with imprisonment for a term upto two years or fine of Rs.5,000/- or both under Section 32 and those offences are taken cognizance by the Court only on the complaint made by the competent authority or President or Chairman of the managing committee of the Farmers' Organisation as provided in Section 33 of the Act. Provision has also been made to compound the said offences in Section 35 of the Act. Section 36 of the Act provides for settlement of disputes between members, Farmers' Organisation, Managing Committee, Distributory Committee and provision for appeal has been provided in Section 37 of the Act. The accounts, records and documents to be maintained by the Farmers' Management of Irrigation System Rules, 2002. For conducting election to the Water Users Organisation, the Tamil Nadu Farmer's Management of Irrigation Systems Election Rules, 2003 have been framed by the Government.

16. When a separate Act has been enacted for the Maintenance of the Irrigation Tanks, it is not known, why the Farmers Association has not been created as contemplated under the Act and without encouraging the same, how this newly formed and registered Association under the Tamil Nadu Societies Registration Act, 1975 has been allotted with the work.

17. All the Ayacutors must have a representation in the Association Constituted under the Tamil Nadu Act 7 of 2001. It is the duty of the Government to establish the Farmers Association as per the Tamil Nadu Farmers' Management Of Irrigation, Systems Act, 2000 (Tamil Nadu Act 7 of 2001) with the participation of the Ayacutors and to ensure this Farmers Association are acting as per the Provisions of the Tamil Nadu Farmers Management of Irrigations Systems Act, 2000 and its Rules 2001.

18. When the provisions under the Tamil Nadu Farmers' Management Of Irrigation, Systems Act, 2000 (Tamil Nadu Act 7 of 2001) mandates that the Kudimaramath works ought to be given to an Association constituted under the Tamil Nadu Act 7 of 2001, it is not known, why the work was allotted to the 7th respondent, a Society, which has been formed and registered only in the year 2020 under the Tamil Nadu Societies Registration Act.

19. Whenever public money is spent on any projects, it must be done in a transparent manner. Since in this case, the work



had already been commenced and almost the work has been completed, it may not be appropriate to interfere with the same. Since the work is carried out to the tune of around one Crore rupees, it would be appropriate to verify, whether the work has been carried out in a proper manner. Therefore, we direct the Legal Services Authority, Ramanathapuram to cause inspection on the Kudimaramath works done in the Thottamangalam Kanmoi, Thottamangalam, Karkathakudi Post, Tiruvadanai Taluk, Ramanathapuram District, whether the work carried out is upto the specifications and the funds allotted to the said work has been utilised properly."

8. In view of the above position and taking note of the fact that the work had hardly commenced and as stated supra, in a hurried manner, an association was created and work order was issued, pending the writ petition, we are not inclined to entertain this writ appeal.

9. In fine, this writ appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Gk

To

- 1.The District Collector,
Office of the District Collector,Sivagangai District.
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Sarugani Water Resource Division,
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