



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED : 20.04.2021

ORDER PRONOUNCED : 29.07.2021

CORAM:

THE HONOURABLE MR.JUSTICE **SATHI KUMAR SUKUMARA KURUP**

W.P.(MD) No.19114 of 2020

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S.Chinnakaruppasamy : Petitioner

vs.

1.The Director,
Department of Rural Development and Panchayat,
Panagal Maligai,
Chennai 600 015.

2.The District Collector/District Project
Coordinator (MGNREGA Scheme),
Tenkasi District (Old Tirunelveli District),
Tenkasi.

3.The Chairman,
State Employment Guarantee Committee
(MGNREGA Scheme),
Saint George Fort,
Chennai 600 009.

4.The Director,
Department of Vigilance and Anti Corruption,
Chennai 600 016.

5.The Block Development Officer,
Alangulam Panchayat Union,
Alangulam,
Tenkasi District,
(Old Tirunelveli District).

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ or order or direction in the nature of Writ of Mandamus to direct the respondents to make proper enquiry and take appropriate action as against erring Government servants of any category or public servants as mandated under the Prevention of Corruption Act, 1988, by consider the petitioner's representation dated on 18.08.2020, within a time stipulated by this Court.

For Petitioner : Mr.T.Veerakumar

For R1 to R3 : Mr.P.Mahendran

Additional Government Pleader

For R4 : Mr.A.P.G.OHM.Chairma Prabhu

Government Advocate (Crl.Side)

For R5 : No appearance



ORDER

This Writ Petition is filed to direct the respondents to make proper enquiry and to take appropriate action as against the erring Government servants of any category or public servants under the Prevention of Corruption Act, 1988, by considering the petitioner's representation dated 18.08.2020.

2. According to the petitioner, who is a farmer, he applied for the work of earthen bunding in his agricultural field to the Panchayat Official, namely, Panchayat Secretary, under the scheme of Mahatma Gandhi National Rural Employment Guaranty Act, 2005. Accordingly, the petitioner was selected as a beneficiary for the aforesaid work, as per the proceedings of the then District Collector, Tirunelveli District in Na.Ka.No.A13/4492/2018, dated 08.01.2019. However, no such work was done at the petitioner's agricultural field by the officials of the 5th respondent. Therefore, he approached the 5th respondent to get the details of the work done in his agricultural field, but the 5th respondent declined to furnish any information.

3. Under those circumstances, the petitioner filed an application dated 22.07.2019 under Right to Information Act, 2005 seeking details of the work that was carried on under the said scheme during the period between 01.01.2018 to 20.07.2019 in his agricultural field. On getting the reply and the documents, the petitioner came to know that the earthen bunding work was done under the scheme of Shelf of Project as per Mahatma Gandhi National Rural Employment Guarantee Act, 2005 in his village.

4. The petitioner also came to know that he was already selected as a beneficiary in Serial No.65 of the proceedings in Na.Ka.No.A13/4492/2018, dated 08.01.2019 and the work was also allotted for the length of about 0.75 kms., in his agricultural field and fund also allotted to the tune of Rs.1.93 lakhs for the aforesaid work, but the officials under the 5th respondent looted the said amount without doing any work in the petitioner's agricultural field. Therefore, the petitioner once again approached the 5th respondent and requested him to conduct an enquiry regarding the illegal activities of the officials under the 5th respondent, but the 5th respondent gave an evasive reply to the petitioner. In the meanwhile, some officials approached the petitioner and requested him not to precipitate the issue further. But, the petitioner was not ready to the same.

5. Further, the petitioner came to know from the reply obtained by him under the Right to Information Act, 2005 that many bogus persons were selected as beneficiaries, who are not at all alive on the date of being selected as beneficiaries. Therefore, on



03.09.2019, the petitioner preferred a complaint before the respondents 2 and 4, but they did not initiate any steps.

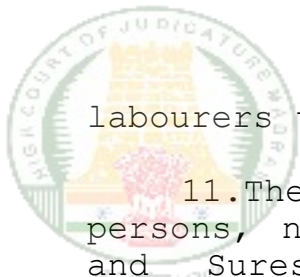
6.The officials under the 5th respondent created false beneficiaries, namely, Muthupandian, S/o.Shanmugam Servai, Mupidathi, W/o.Minor Arunkumar, Selvi, W/o.Mohan and Suresh, S/o.Udaiyar. The illegal activities of the officials under the 5th respondent are punishable under the provisions of Prevention of Corruption Act and other penal provisions. The respondents instead of taking action kept on cold storage the petitioner's complaint. Therefore, the petitioner once again made a representation to the respondents on 18.08.2020, but even thereafter, the respondents have not taken any action. Hence, the petitioner has filed the present Writ Petition.

7.On perusal of the counter filed by the 4th respondent/the Director, Department of Vigilance and Anti Corruption, Chennai, it is found that the 4th respondent is unable to enquire the matter without measuring the works carried out in the petitioner's agricultural field as the nature of work involves experts from the other departments like, Block Development Office, Engineers under the Rural Department and etc.,

8.It is found from the counter filed by the 5th respondent/the Block Development Officer, Alangulam Panchayat Union, Alangulam, Tenkasi District that the complaint petition of the petitioner dated 18.08.2020 had been received by the Office of the Director of Vigilance and Anti Corruption, Chennai through the Project Director, District Rural Development Agency, Tirunelveli before action could be initiated, vide memo No.A7/2711/2020(2) dated 16.12.2020. A reply was sent to the petitioner, informing him that no work was done in his agricultural field as he had failed to come forward for Geotag. In the meanwhile, the Assistant Executive Engineer (Roads and Bridges), Tenkasi, who is the Zonal Officer for Alangulam Panchayat Union, was directed to enquire the complaint petition dated 18.08.2020, vide reference No.A11/441/2020 dated 08.09.2020.

9.The Assistant Executive Engineer (Roads and Bridges), Tenkasi reported that no work had been executed and no payment was made. Wages to the labourers, who have actually involved in the work, have been paid through ECS by ABPS of MGNREGA scheme and there is no case of cash payment in respect of such scheme. Therefore, the allegation of the petitioner that the officials under the 5th respondent looted Rs.1.93 lakhs is a false one.

10.The beneficiary, namely, S.Muthupandi, S/o.Shunmugam Servai was selected by the proceedings of the District Collector, Tirunelveli in proceedings No.A13/4492/2018 dated 08.08.2018 and assigned ID No.2926014001/IF/2904458788. The work in his agricultural field has been started by 04.10.2018 and completed on 31.03.2019. Payments towards wages have been made to the



labourers through ECS by ABPS of MGNREGA scheme.

11.The said beneficiary expired on 21.01.2019. Though the other persons, namely, Muppidthi, W/o.Minor Arunkumar, Selvi, W/o.Mohan and Suresh, S/o.Udaiyar, had been selected by proceeding No.A13/4492/2018 dated 04.03.2019 by the District Collector, Tirunelveli, in Serial Nos.91, 90 and 89 respectively as beneficiaries, they have not been assigned ID numbers and no works have been executed in their agricultural fields. Therefore, the affidavit of the petitioner is not correct.

12.As per the counter filed by the 2nd respondent/The District Collector, Tenkasi District, the petitioner filed an application before the 5th respondent by submitting the land document of his agricultural field, in which, earthen bunding is to be formed. The petitioner backtracked and refused geo-tagging of the land. The petitioner chose to complaint before the respondents in his letter dated 18.08.2020 that the officials of the 5th respondent straightaway misappropriated Rs.1.93 lakhs for the work on his agricultural field. The petitioner was informed by the 5th respondent in his letter No.B4/1793/2020, dated 08.01.2021 that only the petitioner's refusal to geo-tag was the stumbling block in the commencement of the work and was further informed that no expenditure was incurred for the work as no NREGS workers were employed for the work.

13.The Assistant Executive Engineer, Tenkasi made inquiry with the petitioner on 04.03.2021 and she found the petitioner's stark unwillingness to commence the work. The petitioner blatantly accuses the officials that they had looted the allotment for the work. The petitioner only reveals his ignorance of mode and mechanism of payment under MGNREGS scheme as e-NMR is generated in the name of the job cardholders and the persons, who are on the progress of work, are paid through e-FMS (Electronic Fund Management System) to their bank account and no cash is involved.

14.Further, the members of the Social Audit Team verify the all works in all aspect to bring out deviations if any in the principles and guidelines of MGNREGS. Therefore, the claim of misappropriation of huge funds are unfounded. The subject matter of the petitioner are vague allegations. The work file, registers, NMR's (Nominal Muster Roll) and Measurement Books pertaining to the work of earthen bunding at the agricultural fields of Muthupandian, S/o.Shunmugavel Servai (ID No.2926014001/IF/2904458788 (Sl.No.10 of R6.18)) reveals that the work was completed between 25.10.2018 and 31.10.2018 and the completion report was prepared and submitted in the MGNREGS soft on 06.11.2018. But the beneficiary died only on 21.01.2019.

15.Further, death or survival of the scheme beneficiary is immaterial after administrative sanction as the expenditure towards the MGNREGS workers only and not the land owner, who



is only benefited by the scheme. The measurement of the work was registered in M.Book No.550/2018-19. The e-FMS (Electronic Fund Management System) statements show that wages were credited into the savings bank account of the workers by Aadhaar Based Payment System (ABPS).

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16.It is stated that the names of the other persons, namely, Muppudathi, W/o.Minor Arunkumar, Selvi, W/o.Mohan and Suresh, S/o.Udayar, were entered in the Administrative Sanction order but ID was not created in their names and no expenditure was incurred for the works. There is no chance for swindling money from the allotment as the money is paid as wages to the workers by Aadhar Based Payment System (ABPS) an automated payment system, only payable to the job cardholders or real workers. The petitioner has not shouldered the burden of proof on him but interested only in raising his doubts. Therefore, this Writ Petition has no merit and it has to be dismissed.

17.On considering the contents made in the counters, it is found that if the respondents had properly explained to the petitioner, the petitioner might not have come to the Court by filing this Writ Petition. Only after filing this Writ Petition, the facts are mentioned in the counters.

18.Considering the submission of the learned counsel for the petitioner, the 1st respondent is directed to conduct an enquiry, issue summons to the petitioner herein and afford him an opportunity of being heard along with the contentions raised by him in his objection and the 1st respondent is also directed to complete the enquiry and pass appropriate orders within a period of 2 months from the date of receipt of a copy of this order and send a copy of the report of the enquiry to the petitioner. If the petitioner is aggrieved by the order to be passed by the 1st respondent, it is open to him to challenge the same in a manner known to law.

19.With the above direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

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To

1.The Director,
Department of Rural Development and Panchayat,
Panagal Maligai,
Chennai 600 015.

2.The District Collector/District Project
Coordinator (NGNREGA Scheme),
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Tenkasi District,
(Old Tirunelveli District).

+1 CC to M/s.SPL GP (SR-16912[F] dated 21/04/2021)

+1 CC to M/s.T.VEERAKKUMAR, Advocate (SR-24342[F] dated
29/07/2021)

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LR (10.08.2021) 6P 8C