



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.5320 of 2022

and

W.M.P.Nos.5408 and 5410 of 2022

A.Vasanth

... Petitioner

vs

1. The Managing Director,
Tamil Nadu Adi Dravidar Housing &
Development Authority,
No.31, Cenotaph Road, 2nd Lane,
Teynampet, Chennai-18.
2. The District Collector,
Collectorate, Salem & District.
3. The Joint Director,
Adi Dravidar Welfare Department,
Collectorate, Salem & District.
4. The Block Development Officer (BDO),
Panchayat Union Office,
Omalur & Taluk, Salem District.
5. The Block Educational Officer (BEO),
Panchayat Union Office,
Omalur & Taluk, Salem District.
6. Jayasudha

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus directing the 1st respondent to conduct a discreet enquiry about two different proceedings through the proceedings Na.Ka.No.1472/2020/T4 dated 22.07.2021 issued by the 4th respondent and proceedings



Na.Ka.No.33271/D6/2019 dated 12.10.2021 issued by the 2nd respondent and consequently to make public enquiry to the construction of buildings for newly upgraded Adi Dravidar Welfare Middle School, Thathaiyampatti Village, Omalur, Salem District in S.No.47/1, in view of the order in W.P.No.22797/2021 for the proper utilization of the amount Rs.87,09,087.52/- sanctioned by the 1st respondent.

For the Petitioner : Mr.P.Vijendran
For the Respondents : Mr.K.M.D.Mahilan
Govt. Advocate for RR 1 to 5

ORDER

(Order of the Court was made by
the Hon'ble Chief Justice)

The public interest litigation has been filed to seek a discreet enquiry in reference to two orders, one dated 22.07.2021 passed by the fourth respondent and the other dated 12.10.2021 passed by the second respondent.

2. The discreet enquiry has been sought in reference to the decision taken by the respondents to construct the school building in S.No.84/9 instead of S.No.47/1 despite its allocation for a school on upgradation from elementary school to middle school. Despite the decision taken aforesaid, the respondents are proceeding to construct the school building in the land of S.No.84/9 instead using the land of S.No.47/1 with intention to extend the benefit to the office bearers of panchayat. It is despite the fact that earlier in a writ petition, W.P.No.22797 of 2021 decided by a Division Bench of this Court by order dated 27.10.2021, a direction has been issued to consider the representation made by one Karumalai, the petitioner therein, for allotment of site without a specific direction for it to accommodate the petitioner therein and other similarly situated persons in S.No.47/1. The respondents are now deliberately not using S.No.47/1 for school and therefore, discreet enquiry is to be caused.

3. The learned counsel appearing for the respondents have opposed the petition and submitted that a decision was taken to construct the school at the same place where old building of the school was existing. It is looking to the fact that the area therein would be sufficient to cater to the need of the upgraded middle school and apart from the construction of the building, there would be land available for the playground and therefore,



the decision was taken accordingly. The construction of the building has already been started and photograph for it has been placed before the Court. It is more so when the learned Single Judge of this Court had issued a direction for construction of the school building at S.No.84/9 to the extent of 0.0777.0 sq.m. vide order in W.P.No.82 of 2022 dated 07.01.2022. Pursuant to the direction contained therein, the construction is now going on. The prayer is accordingly to dismiss the writ petition.

4. We have considered the rival submissions of the parties and perused the records.

5. The petition has been filed to seek a discreet enquiry in reference to the orders dated 22.07.2021 and 12.10.2021. For ready reference, the translated version of the aforesaid orders are quoted hereunder:-

"Proceedings dated 22.07.2021:

Mr.T.R.Moorthy has given the complaint to the Block Development Officer, Omalur as above cited Reference No.(1) and requested to construct a playground and also open physical exercise centre under the Amma Youth Sports Scheme. The concerned Zonal Deputy Block Development Officer inspected spot visit and submitted report as per 2nd cited reference.

The Zonal Deputy Block Development Officer-1 conducted spot visit in S.No.47/1 at Thathaiyampatty Panchayat, Omalur Panchayat Union. As per the report, the above said land allocated for the upgraded Government Adi Dravidar Welfare Elementary School to the Middle School which contains in Reference No.(3). Therefore, the Panchayat Union has paid the required fees to make a survey in S.No.52/1 and 54/1 as per the resolution passed by the Thathaiyampatti Panchayat on 24.02.2020 to form a playground in S.No.52/1 and 54/4. After making survey we have to take a decision.

Thathaiyampatty Panchayat people like Mr.P.Rajalingam, other Village Heads and the General Public have given objections not to construct the playground and open physical exercise centre in S.No.47/1 and also now upgraded to the Middle School.

Therefore, after making survey we have to decide to construct and playground and open physical exercise centre as per the Thathaiyampatty Panchayat resolution in S.No.52/1 and 54/4 because S.No.47/1 is already allocated to construct classrooms, laboratories and the compound walls to the Middle School."



WEB COPY

Proceedings dated 12.10.2021:-

"The Special Revenue Inspector and the Special Land Survey Sub-Inspector on 28.09.2021 has audited the land with regard to the construction of the upgraded Adi Dravidar Welfare Middle School, Thathaiyampatty and report has been submitted as per the letter of Special Tahsildar cited in the Reference No.4.

The Adi Dravidar Welfare Middle School has been existing in S.No.84/9, spread over 0.0777.0 sq.mt in 0.1356.0 sq.mts, Thathaiyampatty Village, Omalur Taluk, Salem District.

The School Campus having two school buildings, two restrooms, a water tank which belongs to the Panchayat Union, Self Help Group Building Anganwadi Centre and Cooking room. The report has been submitted that there are no objections to construct the upgraded Adi Dravidar Welfare Middle School. In addition to the copy of the audit and land map has been submitted."

6. The perusal of the order dated 22.07.2021 shows that S.No.47/1 was earmarked for the school. However, presently, construction is going on in S.No.84/9 pursuant to the direction of this Court in W.P.No.82 of 2022. Paragraphs 4 and 5 of the said judgment are quoted hereunder for ready reference:-

"4. While being so, one third party viz., Karumalai filed a writ petition in W.P.No.22797 of 2021 for a direction directing the first respondent to consider the representation of the petitioner related to issue of house site patta to the house less peoples in the poramboke land at Thathiyampatty Village. This Court directed the first respondent to consider the request of the petitioner. But the third party claimed the construction of school building and as such, the respondents stopped the construction of the school building.

5. Considering the above, the respondents are directed to continue the construction of the school building, as directed by the first respondent, in survey No.84/9 to an extent of 0.0777.0 sq.mt in 0.1356.0 sq.mts. and complete the same within a period of six months from the date of receipt of a copy of this order."



7. Pursuant to the aforesaid order of the learned Single Judge, now the construction is going on and thereby, we do not find any reason to issue a direction for a discreet enquiry. However, in reference to the order dated 22.07.2021, the land in S.No.47/1 is said to have been allocated for the upgraded middle school and if that is so, that cannot be made available for allotment of house sites.

8. Accordingly, we close the matter with the permission to the respondents to construct the school building in S.No.84/9, at the same time, to keep the land of S.No.47/1 earmarked for the middle school as and when required, if the decision is not taken otherwise and would not be by going against the decision already taken, if any. A case for a discreet enquiry is not made out.

The writ petition is disposed of with the aforesaid observations. No costs. Consequently, W.M.P.Nos.5408 and 5410 of 2022 are closed.

Sd/-
Assistant Registrar

True Copy//

Sub Assistant Registrar

sra

To:

1. The Managing Director,
Tamil Nadu Adi Dravidar Housing &
Development Authority,
No.31, Cenotaph Road, 2nd Lane,
Teynampet, Chennai-18.
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Omalar & Taluk, Salem District.



5. The Block Educational Officer (BEO),
Panchayat Union Office,
Omalur & Taluk, Salem District.

+1cc to Mr.P.Vijendran, Advocate, S.R.No.16174

+1 cc to the Government Pleader, Sr.No.16991 (18/03/2022)

W.P.No.5320 of 2022

NRL[co]
NSK 14/03/2022