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W.P.No.6027 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2022

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA
and
THE HONOURABLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

W.P.No.6027 of 2022
and
W.M.P.Nos.6116 of 2022

Academy of Maritime Education and
Training (Deemed to be University
under Section 3 of the UGC Act)
Represented by its Senior Vice President
and Authorised Signatory Mr.S.Karikalan
Chengalpattu District, Pin Code – 603112.

... Petitioner

VS

1. The Block Development Officer
(Village Panchayat)
Tiruporur Panchayat Union,
Chengalpattu Road,
Tiruporur, Chengalpattu District
Pin Code – 603 110.
2. The Tahsildar of Tiruporur,
Office of the Tahsildar of Tiruporur,
Taluk Office Road,
Tiruporur,
Chengalpattu District,
Pin Code – 603 110.

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to
issue a Writ of Certiorari calling for the Records pertaining to the
proceedings in Form – III dated 14.02.2022 together with the Final



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Notice dated 08.03.2022 in Na.Ka.No.009/2022/Aa1 on the file of the first respondent so as to quash the same.

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For Petitioner : Mr.N.Jothi
For Respondent : Mrs.Sangamithirai
Special Government Pleader for R-1
Mr.A.Selvendran
Special Government Pleader for R-2

ORDER

[Order of this Court was delivered by T.RAJA, J.]

The petitioner has come to this Court questioning the correctness of the impugned proceedings in Form-III, dated 14.02.2022 together with the final notice dated 08.03.2022 in Na.Ka.No.009/2022/Aa1 issued by the first respondent/Block Development Officer, Tiruporur Panchayath, Chengalpattu District.

2.Mr.N.Jothi, learned Counsel appearing for the petitioner would submit that the petitioner is Academy of Maritime Education and Training (AMET) (Deemed to be University under Section 3 of the University Grants Commission Act, 1956), Chennai and started in the year 1993 and after serving the students community, it has been transformed into a Centre for Excellence with Global Accreditation for providing quality education and training in the discipline of maritime education. The petitioner is one of the pioneer institutions in the field of maritime education and it has been conferred with the status of



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“Deemed to be University” under Section 3 of UGC Act for its uniqueness. About 3500 Students are currently undergoing various Maritime and Marine related and allied courses. While so, on 04.12.2021 (Saturday), the respondents herein with their Office Staff came in vehicles to the petitioner's premises around 2.00 p.m., and informed the Registrar that there has been a growth of thorny bushes around and abutting the petitioner's University causing public nuisance because the water stagnated around the area causing bad smell and it is also a source for breeding of mosquitoes, habitation of snakes and other wild insects. Explaining these things, they have requested the petitioner to remove all these unwanted growth of thorny bushes. The petitioner being an educational institution, accepting the request of the respondents, so as to clean the wild growth of thorny bushes, started looking into this matter, but all of a sudden the respondents issued notice dated 14.02.2022 namely Form-III under Section 131(2) and 222 of the Tamil Nadu Panchayats Act, 1994, without giving any prior notice, whatsoever.

3. Referring to the Judgment of this Court in the case of ***T.S.Senthil Kumar Vs. Government of Tamil Nadu, rep. By its Secretary, Public Works Department, Chennai – 9 and others*** reported in **(2010) 3 MLJ 771**, learned counsel appearing for the



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petitioner submitted that when it has been the well settled legal position that even if any one is found to be an encroacher, no Law refuses to give right to the encroacher to be heard. As a matter of fact, notice to be issued to the alleged encroacher to the effect that the survey indicates that the place in his occupation is an encroachment and therefore, the notice in Form-III to be issued. On receipt of said notice, the encroacher has to give objection relating to classification of land and the nature of encroachment within two weeks. Without following the ratio laid down by this Court and without giving any breathing time, all of a sudden, the first respondent issued Form – III notice on 14.02.2022, informing the petitioner to demolish and remove the alleged encroachment on the ground that they have to report before this Court. The respondent cannot compromise with the compliance of the principles of natural justice, he pleaded.

4.Learned Counsel for the petitioner also drawing our notice to Form-III issued on 14.02.2022 informed us that the notice also wrongly indicates that survey has been undertaken on 15.02.2022 when the notice itself was issued on 14.02.2022, therefore, it is not open to the respondents to say that survey has been undertaken on 15.02.2022 which clearly shows that the non-application of mind of the respondent. Mr.N.Jothi further submitted that since the petitioner



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has already given their reply on 05.03.2022, the same shall be considered on merits and orders shall be passed.

5.Mr.A.Selvendran, learned Special Government Pleader appearing for the respondents would fairly submit that the Form-III notice was issued under Section 131(2) and 222 of Tamil Nadu Panchayats Act, 1994 on 14.02.2022 and before issuance of this notice, the petitioner was not issued with any prior notice, as per their records. He further submitted that Form – III has been issued by the first respondent and he being the competent authority to hold an enquiry and pass final order, the entire exercise will be done by the first respondent, as per law.

6.Mr.A.Selvendran, learned Special Government Pleader placing on record the Special Rules for Irrigation, Navigation, Drainage and Flood Control Works of the Public Works Department submitted that as per Chapter V of Rule VI E of the above rules, all minor irrigation tanks not forming part of a chain of tanks shall rest with the Panchayat Union Council concerned, the Block Development Officer, the 1st respondent herein is the competent authority to consider the reply given by the petitioner and pass a final order.



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7.Chapter V of Rule VI E of the Special Rules for Irrigation, Navigation, Drainage and Flood Control Works is extracted below:-

"E. MINOR IRRIGATION WORKS IRRIGATING LESS THAN 40 HECTARES.

384. All Minor Irrigation tanks, irrigating less than 40 hectares excepting those which do not form part of a river irrigation system and those which are for special reasons kept under the control of Public Works Department and all Minor Irrigation tanks not forming part of a chain of tanks shall rest with the Panchayat Union Council concerned."

A perusal of the above Rule clearly shows that the Block Development Officer is the competent authority to consider the grievance of the parties.

8.Learned Counsel for the petitioner submitted that as many new facts have been placed before this Court, some more time may be granted to file additional reply along with the original revenue records and other documents.

9.Accepting this request made by the learned counsel for the petitioner, this Court grants 10 days time from the date of receipt of a copy of this order, to file additional reply, if any, along with supporting documents. On receipt of the additional reply, the first



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respondent/Block Development Officer is directed to consider the reply and also additional reply along with the documents by providing personal hearing to the petitioner and take a decision without being influenced by any of the observations made either in this Writ Petition or in the notice impugned. The first respondent/Block Development Officer shall communicate the time and venue of the personal hearing to be conducted to the petitioner well in advance.

With the above direction, this Writ Petition is disposed of. Consequently, connected Miscellaneous Petition is closed. No costs.

[T.R.,J.]
16.03.2022

[S.S.K.,J.]

srm/dh
Index: Yes/No
Speaking/Non Speaking order

Note: Issue Order Copy on 17.03.2022

To

1. The Block Development Officer
(Village Panchayat)
Tiruporur Panchayat Union,
Chengalpattu Road,
Tiruporur, Chengalpattu District
Pin Code – 603 110.
2. The Tahsildar of Tiruporur,
Office of the Tahsildar of Tiruporur,
Taluk Office Road,



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Tiruporur,
Chengalpattu District,
Pin Code – 603 110.



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**T.RAJA,J.
and
SATHI KUMAR SUKUMARA KURUP,J.**

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