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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.04.2022

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

WRIT PETITION NO.8319 OF 2022

AND

W.M.P.NOS.8293 AND 8296 OF 2022

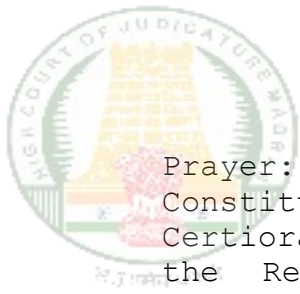
R.Elavarasan

... Petitioner

Vs.

1. The District Collector
Tiruvallur, Tiruvallur District.
2. The Chairman
Minjur Panchayat Union
Tiruvallur District.
3. The Block Development Officer
Minjur, Tiruvallur District.
4. The President
Attipattu Village Panchayat
Attipattu, Chennai-600 120.
5. The General Manager
Zuvari Cement Private Limited
Attipattu Village, NCTPS Post
Ponneri Taluk, Chennai-600 120.
6. The Enforcement Officer
CMDA Enforcement Cell
Tower - II, 9th floor
CMDA Office
Thalamuthu Natarajan Buildings
Egmore, Chennai-8.
7. The Project Director
District Rural Development Office
Thiruvallur
Thiruvallur District.

.. Respondents



Prayer: Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus calling for the records in respect of the Resolution No.39, dated 02.10.2021 passed by the 4th respondent, Athipattu Village President, quash the same and direct the respondents 1 to 5 to construct the water tank at Dr.Ambedkar street, Athipattu Village, to renovate the hospital building and construct new hospital building at Athipattu primary hospital.

For Petitioner	:	Mr.M.Ravibharathi
For R1	:	Mr.R.Kumaravel Additional Government Pleader
For R2 and R3	:	No appearance
For R4	:	Mr.S.Ravichandran Additional Government Pleader

O R D E R

Writ Petition is filed challenging the resolution passed by the 4th respondent dated 02.10.2021 and for a direction to the respondents 1 to 5 to construct the water tank at Dr.Ambedkar street, Athipattu Village, to renovate the hospital building and construct new hospital building at Athipattu primary hospital.

2.Heard the learned counsel appearing for the petitioner as well as the learned Additional Government Pleader appearing for the 1st respondent and the learned Special Government Pleader appearing for the 4th respondent and perused the entire materials on record.

3.Though the respondents 2 and 3 have entered appearance through counsel, there is no representation for them, when the matter is taken up for hearing.

4.According to the petitioner, he is resident of Athipattu Village Panchayat and member of Athipattu Village People Welfare Association. Vaikunda Perumal Nagar Extension lay out was formed in the year 1986 - 1987. In the said lay out, Plot Nos.I to V were earmarked for public purpose. While so in the year 2018, the 4th respondent constructed a community hall utilising the funds given by Kamarajar Port Trust, Ennore, under the scheme of Corporate Social Responsibility (CSR) during the period from 2015 - 2018. The said community hall was constructed next to the



school in the plot meant for park without getting any permission for conversion of park site into plot for community hall. The petitioner and other residents of Athipattu Village requested 4th respondent to construct water tank, renovate the primary health centre and put up additional building for hospital and also provide pipe line for distribution of water to the villagers. The 4th respondent without providing basic amenities, has passed impugned resolution dated 02.10.2021 for construction of additional community hall using CSR funds provided by the 5th respondent. The 4th respondent is putting up construction without permission. While so, the 3rd respondent by the letter dated 16.02.2022 informed the respondents 4 and 5 that construction activities should be commenced only after obtaining permission from the 1st respondent. In such circumstances, the petitioner has come out with the present Writ Petition to quash the resolution passed by the 4th respondent dated 02.10.2021.

5.Mr.R.Kumaravel, the learned Additional Government Pleader appearing for the 1st respondent submitted that the petitioner has no locus-standi to file this Writ Petition for the relief stated above. The 1st respondent is an authority to cancel the resolution. It is for the petitioner to approach the District Collector for his grievances and prayed for dismissal of the Writ Petition.

6.The learned Additional Government Pleader appearing for the 4th respondent submitted that majority of the people of Athipattu village gave representation in Grama Saba meeting to extend the community hall and 4th respondent has passed resolution for construction of additional community hall. Based on that resolution, 4th respondent has started commencement of construction of additional community hall.

7.From the materials on record, it is seen that the petitioner is claiming to be resident of Athipattu Village and member of Athipattu Village People Welfare Association and seeking construction of water tank, laying of pipe line, renovation of primary health centre and put up additional building for hospital. According to the petitioner, without considering the request of the villagers, the 4th respondent has passed resolution for construction of additional community hall, which is not necessary as there is already a community hall. The petitioner in such circumstances has come out with the present Writ Petition to quash the resolution passed by the 4th respondent.

8.The writ petition challenging the resolution passed by the 4th respondent is not maintainable. The petitioner has no right to seek such a relief. As per Section 202 of Tamil Nadu



Panchayats Act, the Inspector of Panchayat, 1st respondent herein has power to suspend or cancel any resolution passed, order issued or license or permission granted, after giving opportunity to the authority or person to submit their explanation. Section 202 of the Tamil Nadu Panchayats Act, 1994 reads as follows:

Section 202 of Tamil Nadu Panchayats Act:

202. Power to suspend or cancel resolution, etc. under the Act. _ (1) The Inspector may, by order in writing, -

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act, if in his opinion,

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life, health or safety, or is likely to lead to a riot or an affray:

Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held. .

(2) The Inspector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under clause (c) of sub-section (I) may be exercised by the Collector in accordance with the provisions of that clause."

Section 202 of the Tamil Nadu Panchayats Act is very specific and categorical to the authority, who can suspend or cancel the resolution passed by the Panchayat. In view of such power is entrusted to the Inspector of Panchayat/District Collector, the Writ Petition to quash the resolution is liable to be dismissed as devoid of merits and is hereby dismissed.

9. The learned counsel appearing for the petitioner submitted that petitioner has made representation to the 1st respondent,



District Collector and Block Development Officer has also issued direction to the 4th respondent. In view of the same, the petitioner is directed to give a fresh representation expressing his grievance to the 1st respondent, District Collector, within two weeks from the date of receipt of a copy of this order. If any such representation is received, 1st respondent is directed to dispose of the same within a period of four weeks thereafter.

10. With the above observation, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

kj

To

1. The District Collector
Tiruvallur, Tiruvallur District.
2. The Chairman
Minjur Panchayat Union
Tiruvallur District.
3. The Block Development Officer
Minjur, Tiruvallur District.
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Egmore, Chennai-8.



7. The Project Director
District Rural Development Office
Thiruvallur
Thiruvallur District.

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+1cc to Mr.M.Ravibharathi, Advocate, S.R.No.27114

+1cc to the Government Pleader, S.R.No.27161

W.P.No.8319 of 2022
and W.M.P.Nos.8293 and 8296 of 2022

SSV(CO)
RLP(12/05/2022)