



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM :

THE HON'BLE MR.MUNISHWAR NATH BHANDARI, CHIEF JUSTICE
AND
THE HON'BLE MRS.JUSTICE N.MALA

W.P.NO.10671 OF 2022
AND
W.M.P.NO.11042 OF 2022

Karuppusamy

... Petitioner

.Vs.

1. The Government of Tamil Nadu,
Rep. by its Secretary to the Government,
School Education Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Chairperson,
The Tamil Nadu Commission for
Protection of Child Rights,
No.300, Purasaiwakkam High Road,
Kellys, Chennai - 600 010.
3. The Chief Educational Officer,
District Education Office,
Rajendra Road, Udumalpet,
Tiruppur District.
4. The District Collector
Tiruppur District,
Tiruppur.
5. The Tahsildar
Udumalpet,
Udumalpet.
6. The Block Development Officer,
Udumalpet Panchayat Union Office,
Udumalpet, Tiruppur District.



7. The Scheme Engineer,
Udumalpet Panchayat Union Office,
Udumalpet, Tiruppur District.

8. The President
Erisanampatti Panchayat
Erisanampatti,
Udumalpet Taluk,
Tiruppur District.

9. The Head Master,
Panchayat Union Elementary School,
Erisanampatti,
Udumalpet Taluk,
Tiruppur District.

... Respondents

PRAYER:-

Petition filed under Article 226 of the Constitution of India praying for a writ of Mandamus forbearing the respondents one to eight from constructing a water tank in the ninth respondent school land in a manner posing dangerous to the lives of the children and reducing the extent of playground of them by considering petitioner's representation dated 18.03.2022.

For Petitioner : Mr.N.Ponraj

For Respondents : Mr.P.Muthukumar
State Government Pleader
For respondents 1, 3, 4 & 5

Mr.D.R.Arun Kumar
For Respondent 8

ORDER

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

The writ petition has been filed seeking a direction to restrain respondents 1 to 8 from constructing an overhead water tank in the school in a manner posing danger to the lives of the students and reducing the extent of playground.

2. The writ petition has been filed alleging that the respondents are constructing an overhead water tank, reducing the area of school used for playground and otherwise, it is posing a threat to the lives of the students.



3. The counter to the writ petition has been filed, giving out true facts of the case. It is stated that the overhead water tank was existing in the school premises for the last forty years. Looking at the condition of the overhead water tank, a proper decision was taken to demolish it, so as to reconstruct the same. The matter was even considered by the competent authorities looking at the dilapidated condition of the overhead water tank. The school authorities have also passed a resolution for reconstruction of the overhead water tank. Thus, it is not that for the first time, the water tank is going to be constructed in the school premises to reduce the area of playground rather, it was existing for the last forty years. The construction of the overhead water tank is with due permission of all the authorities and consent of the school authorities, in view of the resolution passed. Thus, the prayer is to dismiss the writ petition filed for extraneous consideration.

4. We have considered the submissions made by the parties and perused the records.

5. The allegation made by the petitioner is against the construction of an overhead water tank, reducing the extent of the playground of the school. This is ignoring the true facts that the overhead water tank was existing at the same place for the last forty years. Looking at the facts aforesaid, it cannot be said that the area of playground is going to be reduced with the re-construction of the existing overhead water tank, which was found to be in dilapidated condition. The resolution of the school authorities also exists, apart from permission from other authorities to reconstruct the overhead water tank for proper supply of water in the village. Thus, the petitioner has failed to show either the reduction of the play area on construction of the overhead water tank at the place where it was earlier existing or the risk involved in reconstructing the overhead water tank.

6. In view of the above, what we find is nothing but misuse of the jurisdiction of this Court in public interest litigation. Accordingly, the writ petition is dismissed. Consequently, W.M.P.No.11042 of 2022 is also closed. There will be no order as to costs.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

kk/drm



To

1. The Secretary to the Government,
School Education Department,
Government of Tamil Nadu,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The Chairperson,
The Tamil Nadu Commission for
Protection of Child Rights,
No.300, Purasaiwakkam High Road,
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3. The Chief Educational Officer,
District Education Office,
Rajendra Road, Udumalpet,
Tiruppur District.
4. The District Collector,
Tiruppur District, Tiruppur.
5. The Tahsildar
Udumalpet, Udumalpet.
6. The Block Development Officer,
Udumalpet Panchayat Union Office,
Udumalpet, Tiruppur District.
7. The Scheme Engineer,
Udumalpet Panchayat Union Office,
Udumalpet, Tiruppur District.
8. The President,
Erisanampatti Panchayat,
Erisanampatti, Udumalpet Taluk,
Tiruppur District.
9. The Head Master,
Panchayat Union Elementary School,
Erisanampatti, Udumalpet Taluk,
Tiruppur District.

+1cc to Mr.N.Ponraj, Advocate, S.R.No.33830
+1cc to Mr.D.R.Arun Kumar, Advocate, S.R.No.33964
+1cc to the Government Pleader, S.R.No.33751

W.P.NO.10671 OF 2022

GPL(CO)
PBS/15/06/2022