



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2022

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P.NO.33407 OF 2017

AND

W.M.P.NOS.36890 & 36891 OF 2017

S.Subasri,
D/o. Selvaraj
rep. by her Power of Attorney
P.Aroumenadin

...Petitioner

Vs.

1.The Chief Engineer,
Public Works Department,
No.34, Lal Bahadur Sashtri Street,
Puducherry -1.

2.The Executive Engineer,
Public Works Department,
Irrigation Division,
No.34, Lal Bahadur Sashtri Street,
Puducherry - 1.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records of the 2nd respondent dated 29.08.2017 made in No.8568/PW/EEI/DB/D4/C20/Culvert/2017-18, and quash the same as arbitrary, consequently direct the respondents to accord permission to the petitioner to construct culvert as per the original permission dated 31.07.2017 in the light of the representation dated 19.09.2017 within a time frame to be stipulated by this Hon'ble Court.

For Petitioner : Mr.Vasanthakumar Vengadessane

For Respondents : Mr.G.Djearany,
Government Advocate

O R D E R

This Writ Petition has been filed challenging the order passed by the 2nd respondent dated 29.08.2017 cancelling the permission granted to the petitioner for construction of culvert across the drainage water channel.



2. The case of the petitioner is that, he is having agricultural land in Survey No.45/1, Uchimedu Revenue Village. There is no drainage channel between the petitioner's land and the main road, and there is no proper access to reach his land. Hence, he has sought for permission to construct RCC culvert across the drainage channel. Even though the permission was granted to the petitioner originally in the year 2017, he was not permitted to construct culvert across the drainage water channel and ultimately, without assigning any reason whatsoever, the order granting permission was cancelled. Challenging the same, the present Writ Petition has been filed.

3. Mr.Vasanthakumar Vengadessane, learned counsel appearing for petitioner would submit that, earlier after considering entire materials and also conducting field inspection, the authorities granted permission, but without assigning any reason whatsoever, now it has been cancelled.

4. Mr. G.Djearany, learned Government Advocate appearing for respondents would submit that, since the very purpose, for which permission granted was not complied, and there is no development on the other side of petitioner's property, and there is no need to construct another culvert. Hence, the permission granted to the petitioner was cancelled. That apart, now permission granted to construct culvert was 7.5 m width, which will affect the flow of water in the drainage channel.

5. Considering those circumstances, earlier, this Court directed the petitioner to give revised proposal to the authority, for constructing culvert. Pursuant to the same, the petitioner has also given a revised proposal and the respondents were directed to consider the same. Considering the revised proposal, now the report has been filed by the Executive Engineer, Irrigation Division, Public Works Department stating that, the revised plan has been considered and the petitioner may be restricted to construct culvert to the width of 3.8 m, as per IRC standards instead of 7.5 m width as requested by the petitioner, in order to clean the channel during the monsoon/flood season for free flow of water.

6. On the report, Mr. Vasanthakumar Vengadasane, learned counsel appearing for petitioner, on instructions, would submit that, the petitioner restrict his claim to 3.8 m width.

7. Heard and considered rival submissions made by learned counsel appearing for both sides and perused the records carefully.



8. Considering those facts and circumstances, the impugned order passed by the 2nd respondent is set aside and the 2nd respondent is directed to consider the fresh proposal submitted by the petitioner and give permission to construct culvert at 3.8 m width, along with other appropriate conditions. The above exercise should be completed within a period of eight weeks from the date of receipt of copy of this order. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS-VIII)

// True Copy //

Sub Assistant Registrar

rpp

To

1.The Chief Engineer,
Public Works Department,
No.34, Lal Bahadur Sashtri Street,
Puducherry -1.

2.The Executive Engineer,
Public Works Department,
Irrigation Division,
No.34, Lal Bahadur Sashtri Street,
Puducherry - 1.

+1cc to M/s.V.Vasanthakumar Vengadessane, Advocate Sr.No.27206

+1cc to the Government Pleader Sr.No.27799

W.P.No.33407 of 2017

JP-II(CO)
RVM(27/05/2022)