



W.P.(MD)Nos.7429, 7656, 8251 & 10077 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 15.07.2022

DELIVERED ON : 25.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

and

THE HONOURABLE MRS.JUSTICE R.HEMALATHA

W.P.(MD)Nos.7429, 7656, 8251 & 10077 of 2020

and

W.M.P.(MD)Nos.6884, 7153 & 8973 of 2020

W.P.(MD)No.7429 of 2020:

Sureshgiri

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Director (Town Panchayat),
Office of the Assistant Director,
Virudhunagar District,
Virudhunagar.



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3.The Executive Officer,
Sundarapandiyam Town Panchayat,
Sundarapandiyam,
Watrap Taluk,
Virudhunagar District.

4.Ramar @ Seththuran : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the second respondent to issue necessary direction to the third respondent to do the work of constructing the canal for the sewerage and erecting the paver blocks at the Tadhco colony area in Sundarapandiam Town Panchayat of Virudhunagar District directly by stalling the work done by the fourth respondent, based on the petitioner's representation dated 17.06.2020 made to the respondents No.1 and 2.

For Petitioner : Mr.D.Rajaboopathy
For Respondents 1 & 2 : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent No.3 : Mr.A.K.Manikkam
Special Government Pleader
For Respondent No.4 : Ms.V.Muthukamatchi



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W.P.(MD)No.7656 of 2020:

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M.Ganeshkamu

: Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Executive Officer,
Sundarapandiyam Town Panchayat,
Sundarapandiyam,
Watrap Taluk,
Virudhunagar District.

3.Ramar @ Seththuran

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the 2nd respondent to carryout the work of constructing the canal for the sewerage and erecting the paver blocks on the road at Tadhco colony ward No.15, Sundarapandiyam Town Panchayat, Watrap Taluk, Virudhunagar District directly by cancelling the work order given to the third respondent on the basis of the petitioner's representation dated 12.06.2020 made to the 2nd respondent herein.



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For Petitioner : Mr.P.Krishnasamy
for Mr.M.Boominathan
For Respondent No.1 : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent No.2 : Mr.A.K.Manikkam
Special Government Pleader
For Respondent No.3 : Ms.V.Muthukamatchi

W.P.(MD)No.8251 of 2020:

V.Thannasi : Petitioner

Vs.

1.The District Collector,
District Collector Office,
Virudhunagar District.

2.The Assistant Director (Town Panchayat),
Assistant Director Office,
Virudhunagar District.

3.The Executive Officer,
Sundarapandiyam Town Panchayat,
Sundarapandiyam,
Virudhunagar District.

4.Ramar @ Seththuran : Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the first respondent to issue necessary direction to the third respondent not to clear the Bill for the work of constructing the canal for the drainage and erecting the paver block stones in Ward No.15, Tadhco Colony, Sundarapandiam Town Panchayat, Virudhunagar District done by the fourth respondent, based on the petitioner's representation dated 19.07.2020 made to the first respondent.

For Petitioner : Mr.B.Satheeshkumar
For Respondents 1 & 2 : Mr.D.Sadiq Raja
Additional Government Pleader
For Respondent No.3 : Mr.A.K.Manikkam
Special Government Pleader
For Respondent No.4 : Ms.V.Muthukamatchi

W.P.(MD)No.10077 of 2020:

R.Dhurgaiyandi : Petitioner

Vs.

1.The Principal Secretary to Government,
TamilNadu Highway Department and Minor Ports Department,
Fort St. George,
Chennai – 600 009.



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2.The Chief Engineer (H),
Construction and maintenance,
Chief Engineer's Office,
No.76, HRS Campus,
Sardar Patel Road,
Guindy,
Chennai – 600 025.

3.The District Collector,
Virudhunagar District,
Virudhunagar.

4.The Divisional Engineer (H),
Office of the Divisional Engineer,
Virudhunagar District,
Virudhunagar.

5.The Executive Officer,
Office of the Executive Officer,
Sundarapandiyam Town Police Station,
Sundarapandiyam Post,
Watrap Taluk,
Virudhunagar District.

6.Ramar @ Seththuran : Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying for a Writ of Mandamus, directing the third respondent to issue necessary direction to the fifth respondent not



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to clear the bill for the work of constructing the canal for the drainage and erecting the paver Block Stones in Ward No.09, Arjuna Middle Street, Sundarapandiam Town Panchayat, Virudhunagar District done by the sixth respondent, based on my representation dated 24.07.2020 made to the third respondent.

For Petitioner : Ms.M.Shobana

For Respondents 1 to 4 : Mr.D.Sadiq Raja

Additional Government Pleader

For Respondent No.5 : Mr.A.K.Manikkam

Special Government Pleader

For Respondent No.6 : Ms.V.Muthukamatchi

COMMON ORDER

[Common Order of the Court was made by P.N.PRAKASH, J.]

In all these four writ petitions, the petitioners claim to be residents of Tadhco Colony in Sundarapandiam Post and are alleging that one Ramar @ Seththuran [private respondent herein] who has been given the contract to lay paver block roads in Ward No.15 of Tadhco Colony has not used quality materials and has not properly laid the road. Therefore, they are seeking various reliefs, including a direction not to disburse payment to the said Ramar @ Seththuran.



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2.In W.P.(MD)No.7429 of 2020, this Court had passed the following order on 09.07.2020:

“Though the matter has been called twice, the learned counsel appearing for the petitioner is not connected.

2.Mr.R.Murugan, learned Additional Government Pleader appears for the respondent Nos.1 & 2. Mr.V.R.Shanmuganathan, the learned Special Government Pleader appearing for the third respondent would submit that the work order has been issued on 03.02.2020 and an outer time limit of three months is prescribed for completion of the work and seeks time to file status report with supporting documents. He also ensures that the quality of the work undertaken would also be verified and the status report to be filed would also contain the said details also.

*3.Post the matter on **06.08.2020**, “for orders”.*

3.Pursuant to the above, the Executive Officer of Sundarapandiam Town Panchayat has filed a detailed status report dated 21.12.2021 with supporting documents. In the said status report, it is stated as follows:



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"2.I respectfully submitted that under the 14th Finance Commission Scheme 2019-2020, it was proposed to lay Paver Block road in that TADCO Colony and R 91 of Sundarapandiyam Town Panchayat. In pursuant to the administrative sanction and technical sanction of the Government, tenders were called for the above said works along with other works by the Director of Town Panchayat by proceedings dated 07.01.2020, which was given due publicity in local vernacular newspapers on 10.01.2020 as per guide lines issued by the Hon'ble Apex Court as as well as this Hon'ble High Court. Further the last date for submission of the tender was fixed as 28.01.2020 and on the same day the tenders were also scheduled to be opened. Based on the said advertisement, tenders were received by the Executive Officer, Sundarapandiyam Town Panchayat. After scrutinized the tender applications, Mr.Ramar, S/o.Gurusamy was declared as successful bidder for the above said both works by our office.

3.I respectfully submit that after declared as successful bidder an agreement was entered between Mr.Ramar and the Executive Officer of the Sundarapandiyam Town Panchayat for the above said both works and subsequently work orders were issued by the Executive Officer



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by his proceedings in ROC.No.15/2020 dated 03.02.2020. After receiving said work orders, Mr.Ramar has started work and both works were completed ie., TADCO Colony and R 91 Colony work completed in a proper manner on 30.05.2020 and Harijan North Street and Harijan South Street work completed in a proper manner on 31.07.2020.

4.I respectfully submit that, Mr.Ramar/Contractor has made proper provision for drainage to the satisfaction of the residents in that locality. Except the petitioners, nobody made any complaint before the Executive Officer regarding laying Paver Block Road till date. Apart from that there is no encroachment in the said streets as alleged by the petitioners. Furthermore, at that time of work in progress, the Assistant Engineer of the Town Panchayat Department, Virudhunagar District had made spot inspections frequently and based on his inspections, he has given a report before the Executive Officer in respect of TADCO Colony and R 91 Colony on 30.07.2020 and in respect of Harijan North Street and Harijan South Street on 27.08.2020. AS per tender notification Mr.Ramar/contractor has not made any deviation to the conditions in the work order. Further, as per direction of the Assistant Engineer, in order to ascertain the quality of the materials used,



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namely the Paver Blocks, the materials were sent to the Regional Testing Laboratory at Madurai and the said Laboratory has issued a certificate on 06.08.2020, the Testing Laboratory specified the Material Status Report is "With respect to the above tests, the tendered sample Passes the Requirements". Hence the Laboratory Report is also in favour of the contractor 83 mm point should be ordered.

5.I respectfully submit that, work is completed as per norms and conditions stipulated by the authorities without any irregularities. After completing work, the work amount is not paid till date due to pendency of the writ petitions. The above said work is completed more than 18 months. At this juncture, as per direction of this Hon'ble Court, myself ie., Executive Officer and our officials were conducted spot inspection on 18.12.2021 in every streets and took photo copies of the Paver Block Roads in the streets as on date. Herein I have enclosed the photo copies of the Paver Block Road for perusal of this Hon'ble Court through the typed set of papers.

6.I respectfully submit that in view of the above facts, the contractor has completed work in proper manner without any deviation or irregularities as per norms and condition



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stipulated by the authority. Apart from that, the work is completed more than 18 months, from the date of completion work the Paver Block Roads are using by that locality people. At this stage the Paver Block Roads in the streets are well and good conditions as on date.”

4.Learned Counsel for the petitioners drew the attention of this Court to the Clause Nos.6, 7, 9 & 10 of the conditions of the tender notice dated 10.01.2020 and contended that the official respondents have not stated anything with regard to that in their counter affidavit. That apart, they contended that the test certificate was issued only on 06.08.2020, after the writ petitions were filed.

5.We gave our anxious consideration to the aforesaid submission. In the order of this Court dated 09.07.2020, which has been extracted hereinabove, a direction was issued to the authorities to conduct an inspection and submit a report. Pursuant to that, the authorities have conducted the required tests in the Regional Testing Laboratory of the Department of Industries and Commerce and have submitted the reports as stated in the status report. Copies of the reports have been enclosed in the typed set of papers. The results of the test reports read as under:



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**Material
Status**

***With respect to the above tests, the tendered sample
Passes the Requirements***

6. Along with their counter affidavit, the official respondents filed a typed set of papers dated 21.12.2021, in which in Page No.1, they have kept the tender notice, which contains eighteen clauses. The learned counsel for the petitioners made an oral submission based on the documents furnished by the respondents that the successful bidder has not complied with condition Nos.6, 7, 9 & 10. In a public interest litigation, the petitioners cannot be allowed to make a fishing expedition to pick holes from the documents submitted by the other side and build a new case.

7. That apart, the petitioners have not raised in their affidavit any ground relating to Clause Nos.6, 7, 9 & 10 of the tender notice dated 10.01.2020 and that is why, the official respondents have not stated anything on these aspects in their counter affidavit.

8. Thus, we are satisfied that there are no irregularities as alleged by the petitioners in the work that was executed by Ramar @ Seththuran, the contractor.



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9.In the result, all these writ petitions stand dismissed.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

[P.N.P.J.] & [R.H.,J.]

25.07.2022

Index : Yes/No

Internet : Yes/No

MR

To

1.The Principal Secretary to Government,
TamilNadu Highway Department and Minor Ports Department,
Fort St. George,
Chennai – 600 009.

2.The District Collector,
Virudhunagar District,
Virudhunagar.

3.The Chief Engineer (H),
Construction and maintenance,
Chief Engineer's Office,
No.76, HRS Campus,
Sardar Patel Road,
Guindy, Chennai – 600 025.



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4.The Assistant Director (Town Panchayat),

Office of the Assistant Director,

Virudhunagar District,

Virudhunagar.

5.The Divisional Engineer (H),

Office of the Divisional Engineer,

Virudhunagar District,

Virudhunagar.

6.The Executive Officer,

Sundarapandiyam Town Panchayat,

Sundarapandiyam,

Watrap Taluk, Virudhunagar District.



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P.N.PRAKASH, J.

and

R.HEMALATHA, J.

MR

PRE-DELIVERY COMMON ORDER MADE IN
W.P.(MD)Nos.7429, 7656, 8251 & 10077 of 2020

25.07.2022