



W.P.(MD)No.9028 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 12.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

AND

THE HONOURABLE Mrs. JUSTICE R.HEMALATHA

**W.P.(MD)No.9028 of 2021 and
WMP(MD) No.6908 of 2021**

N.Suresh Rajan

: Petitioner

Vs.

**1.The Secretary/Commissioner
Municipal Administration
Government of Tamilnadu
Chennai.**

**2.The District Collector,
Kanyakumari District.**

**3.The Director,
Town Panchayat, Chennai 28**

**4.The Director,
Directorate of Vigilance and Anti Corruption,
Chennai.**

**5.The Superintendent of Police,
Directorate of Vigilance and Anti Corruption
Chennai.**

: Respondents



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PRAYER: Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus to direct the respondents to consider the petitioner's representation/complaint dated 16.02.2021 and follow up representation dated 20.04.2021 and initiate appropriate action against those involved in illegal tenders.

For Petitioner : Mr.Pugazh Gandhi

For Respondents : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.A.K.Manikkam
Special Government Pleader

ORDER

(Order of the Court was made by P.N.PRAKASH, J.)

Making an omnibus allegations that in Kanyakumari District, road contracts have been awarded for extraneous purposes, which has to be enquired into, the petitioner, who is a sitting MLA, filed the present Public Interest Litigation. It appears that the petitioner had given a representation dated 16.02.2021 in this regard, which forms the subject matter of this writ petition.

2.When the matter came up before this Court, the following order was passed on 16.11.2021:

By order dated 01.06.2021, the Division Bench of



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this Court had already directed the appropriate respondent to file a report before this Court to examine as to what relief the petitioner is entitled to in this writ petition.

2.Mr.Veerakathiravan, learned Additional Advocate General-III, who is present before this Court, submits that the respondents 4 and 5, who are the higher officials of the Directorate of Vigilance and Anti-Corruption Department are the appropriate authorities to file such report. Therefore, we direct the respondents 4 and 5 to file a report based on the allegations stated in the affidavit filed in support of this writ petition, on or before 14.12.2021.

3.Post the matter on 14.12.2021, for filing such report.”

3. The District Collector has filed a detailed counter affidavit dated 10.08.2021. The learned counsel for the petitioner took this Court through Paragraph Nos.10 and 11 of the said counter affidavit and contended that the District Collector has admitted that in respect of three panchayats, the time period for notification of the tender and the closing of the tender could not be adhered to. It may be necessary to extract the relevant Paragraph:



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“10. ... Except in respect of three Town Panchayats, viz., (i) Aralvaimozhi (ii) Kadayal and (iii) Palugal the tender notices were published in the bulletin in respect of the remaining ten Town Panchayats. It is only due to administrative reason between the Public Relation Officer of the 2nd respondent and the Government Press, in respect of three Town Panchayats, tender notice has been omitted to be published in the Bulletin inadvertently, for which no *mala fide* intention can be attributed.”

The rest of the allegations have been denied by the District Collector in his counter.

4. The Deputy Superintendent of Police, Vigilance and Anti Corruption has filed a detailed counter affidavit dated 12.08.2021, wherein, he has stated that the subject matter of the allegations has to be looked into by a special authority created under the Tamil Nadu Local Bodies Ombudsman Act, 2014 and not by the Vigilance and Anti Corruption at this juncture. In fact, a communication of the Directorate of Vigilance and Anti Corruption dated 15.03.2021 was served on the petitioner, wherein, the petitioner was advised to approach the special



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body. On a conspectus of the facts obtaining in this case, we do not find sufficient materials to infer that there has been a large scale corruption as alleged by the petitioner warranting registration of an FIR in this case.

5. Mr.Veera Kathiravan, learned Additional Advocate General conceded that in the majority of the panchayats, the time line stipulated under the Tender Transparency Act was not complied with, but that by itself would not lead to the inference that there has been corruption in the award of tenders without anything more.

6. In fact, as held by the Supreme Court in ***Secretary, Minor Irrigation v. Sahangoo Ram Arya [(2002) 5 SCC 521]***, a direction cannot be issued in order to find out if a person has committed an offence, as that would be violation of the Article 21 of the Constitution of India. In such view of the matter, we do not find any merit in this petition. Accordingly, this petition is dismissed. No costs. Consequently connected Miscellaneous Petition is dismissed.

[P.N.P., J.] & [R.H., J.]
12.07.2022

Index : Yes/No
Internet : Yes
RR



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P.N.PRAKASH, J
AND
R.HEMALATHA, J
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