



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.10918 of 2022

and

W.M.P. (MD) Nos.7873, 7874, 7876 and 8792 of 2022

N.Petchithai

... Petitioner

Vs.

1.The District Collector,
District Collector Office,
Tirunelveli District.

2.The Deputy Director of Town Panchayat,
Tirunelveli District.

3.The Assistant Executive Engineer,
Deputy Officer of Town Panchayat Office,
Tirunelveli District.

4.The Deputy Engineer,
Public Work Department,
Thisayanvilai Division,
Tirunelveli District.

5.The Executive Officer,
Nangunri Town Panchayat,
Tirunelveli District.

6.V.Kalyani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned order passed by the 5th respondent herein in his proceedings in Na.Ka.No.134/2019/ml dated 27.04.202 cancelled the work order dated 07.02.2020 for construction of toilet and compound wall at Nanguneri Town Panchayat Government Girls Higher Secondary School and quash the same as illegal and further direct the 5th respondent to permit the petitioner to complete the work order dated 07.02.2020 for construction of toilet and compound wall at Nanguneri Town Panchayat Government Girls Higher Secondary School, Tirunelveli District.



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For Petitioner : Mr.V.Meenakshisundaram
For Respondents : Mr.Veerakathiran,
Additional Advocate General,
Assisted by Mr.N.Ramesh Arumugam,
Government Advocate for R1 to R4.
Mr.B.Saravanan,
Addl. Government Pleader for R5

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Advocate General for the respondents 1 to 4 and the learned Additional Government Pleader for the fifth respondent.

2.The petitioner was issued with work order for constructing toilet and compound wall for the petition mentioned girls school. The fifth respondent issued the impugned communication terminating the work on the ground that the petitioner has been indifferent in carrying out the contractual obligations. The matter was listed before this Court on 07.06.2022. Since it was represented that 80% of the work had been completed and only 20% of the work remains to be done, the petitioner was permitted to complete the remaining work within two weeks. An interim order was passed to that effect. It was also made clear that regarding the amount payable to the petitioner, the issue will be adjudicated later. Pursuant to the interim order granted by this Court, the petitioner completed the remaining work also.

3.The respondents have filed a detailed counter affidavit. The learned Additional Advocate General took me through the contents of the counter affidavit. He contended that the petitioner had originally completed only 35% of the work and that the remaining 45% of the work was actually completed by the school management committee and the parent teacher association and that it was falsely represented before this Court as if the petitioner had completed 80% of the work. It is however fairly stated that the work has now been completed. The remaining 20% of the work was completed by the petitioner only.

4.Whether the petitioner completed 45% of the work or whether it was done by the school management committee and parent teacher association is a disputed question of fact and the same will have to be adjudicated only before the jurisdictional civil Court. However, before approaching the civil Court, the petitioner can very well place his case before the Town Panchayat Council. If the decision of the Council goes against the petitioner, the petitioner through his counsel gives an undertaking that he will not once again move the Writ Court but rather go before the jurisdictional civil Court. The said undertaking given by the petitioner is recorded.



5.Since the petitioner had admittedly completed 55% of the work, she will be entitled to payment of 55% of the agreed amount straightaway. It is hoped that since there is no controversy that the petitioner had completed 55% of the work, payment therefor will be paid as expeditiously as possible.

6.The writ petition is disposed of on these terms. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(Cs-II)

// True Copy //

/07/2022

Sub Assistant Registrar(CS)

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To:

- 1.The District Collector,
District Collector Office,
Tirunelveli District.
- 2.The Deputy Director of Town Panchayat,
Tirunelveli District.
- 3.The Assistant Executive Engineer,
Deputy Officer of Town Panchayat Office,
Tirunelveli District.
- 4.The Deputy Engineer,
Public Work Department,
Thisayanvilai Division,
Tirunelveli District.
- 5.The Executive Officer,
Nangunri Town Panchayat,
Tirunelveli District.

+1 CC to M/s.D. NALLATHAMBI, Advocate (SR-27227[F] dated 21/06/2022)

+1 CC to M/s.SPL.GP (SR-27470[F],SR-27708[F] dated 22/06/2022)

W.P (MD) No.10918 of 2022
21.06.2022

NSN (CO)

KB (04.07.2022) 3P 8C