



W.P.(MD) No.29011 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

AND

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.P.(MD)No.29011 of 2022

and

W.M.P.(MD)Nos.22988 and 22992 of 2022

S.R.Sankarapandian

... Petitioner

-Vs-

1.The Additional Chief Secretary,

Municipal Administration and Water Supply Department,

Government of Tamil Nadu,

Secretariat, Fort St.George,

Chennai.

2.The Commissioner of Municipal Administration,

Municipal Administration and Water Supply Department,

No.78, Urban Administrative Building,

Santhome High Road, Chennai-600 028.

... Respondents

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WEB CONTENT

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records of the impugned Government order passed by the 1st respondent vide G.O.(Ms)No.145, Municipal Administration and Water Supply (NS) Department, dated 14.10.2022 and quash the same as illegal and direct the 1st respondent to modify the impugned Government order as per the guidelines of 'Namaku Naame Thittam' (Urban) and thereby incorporate the provision for people participation in the project of conversion of existing street lights into energy efficient LED lights for 8 city Municipal Corporations and 76+11 municipalities.

For Petitioner : Mr.Raja.Karthikeyan

For Respondents : Mr.P.Thilakkumar

Government Pleader

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

We have heard the submissions made on either side and perused the materials placed on record.

2.Challenging the order of the 1st respondent in G.O.(Ms)No.145, Municipal Administration and Water Supply (NS) Department, dated 14.10.2022, this Writ Petition is filed with a consequential direction to direct the

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1st respondent to modify the impugned Government order as per the guidelines of 'Namaku Naame Thittam' (Urban) and thereby incorporate the provision for people participation in the project of conversion of existing street lights into energy efficient LED lights for 8 city Municipal Corporations and 76+11 municipalities.

3.Mr.P.Thilakkumar, learned Government Pleader takes notice for the respondents. By consent of both parties, this Writ Petition is taken up for final disposal at the admission stage itself.

4.The grievance of the petitioner is that the 1st respondent vide G.O.(Ms)No.145, Municipal Administration and Water Supply (NS) Department, dated 14.10.2022, directed the Urban Local Bodies to obtain loan for conversion of existing street lights into LED lights for 8 city Municipal Corporations and 76+11 Municipalities without considering the guidelines issued for implementation of Namaku Naame Thittam (Urban) vide G.O.(Ms) No.71, Municipal Administration and Water Supply (MA2) Department, dated



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13.09.2021. As per the guidelines of Namakku Naame Thittam, the volunteers are paying 50% of the project cost to the Urban Local Bodies by reducing its financial burden and also enabling the public to contribute for community development.

5.The petitioner is the President of Q915, Mudukulathur Primary Agricultural Co-operative Bank, Mudukulathur and also a practicing Advocate at Ramanathapuram. It is submitted that the philanthropists are ready to contribute to the public scheme. The impugned Government Order is in the nature of compelling the local bodies to avail loan at the rate of 5% interest from the Government aided agency, which would cause financial burden to the urban local bodies. If it so, the contribution from public shall be entertained by publishing a public notification. Without doing so, the above Government Order is issued compelling the Urban local bodies to avail loan from the Government aided agencies. Hence, he prays for modification of the impugned Government Order.



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6.The learned Government Pleader appearing for the respondents submitted that the Government Order, which is impugned herein, has been issued to reduce the expenditure/energy consumption charges up to 40% for the existing street lights and to provide efficient street lights facility. Considering all these aspects, the Government has considered to implement the project. Further, taking note of the financial status of the Corporations and Municipalities, the impugned Government Order has been issued to avail loan from the Government Aided Agencies. Hence, the same does not warrant any interference.

7.The Hon'ble Supreme Court of India in the case of ***West Bengal Central School Service Commission Vs. Abdul Halim*** reported in ***2019 SCC Online SC 902*** had an occasion to consider the scope of interference under Article 226 of Constitution of India in an administrative action. The relevant portions are extracted hereunder:-

“ 31. In exercise of its power of judicial review, the Court is to see whether the decision impugned is vitiated by an apparent error of law. The test to determine whether a decision is vitiated by

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error apparent on the face of the record is whether the error is self-evident on the face of the record or whether the error requires examination or argument to establish it. If an error has to be established by a process of reasoning, on points where there may reasonably be two opinions, it cannot be said to be an error on the face of the record, as held by this Court in Satyanarayan v. Mallikarjuna reported in AIR 1960 SC 137. If the provision of a statutory rule is reasonably capable of two or more constructions and one construction has been adopted, the decision would not be open to interference by the writ Court. It is only an obvious misinterpretation of a relevant statutory provision, or ignorance or disregard thereof, or a decision founded on reasons which are clearly wrong in law, which can be corrected by the writ Court by issuance of writ of Certiorari.

32. The sweep of power under Article 226 may be wide enough to quash unreasonable orders. If a decision is so arbitrary and capricious that no reasonable person could have ever arrived at it, the same is liable to be struck down by a writ Court. If the decision cannot rationally be supported by the materials on record, the same may be regarded as perverse.

33. However, the power of the Court to examine the reasonableness of an order of the authorities does not enable the Court to look into the sufficiency of the grounds in support of a



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decision to examine the merits of the decision, sitting as if in appeal over the decision. The test is not what the Court considers reasonable or unreasonable but a decision which the Court thinks that no reasonable person could have taken, which has led to manifest injustice. The writ Court does not interfere, because a decision is not perfect.”

8.In view of the aforesaid decision, we are not inclined to interfere with the administrative decision taken by the 1st respondent. Therefore, the prayer sought for in the Writ Petition cannot be granted at this stage.

9.At this juncture, the petitioner seeks indulgence of this Court to permit the petitioner to make a fresh representation before the authorities concerned for necessary action.

10.Considering the request of the petitioner, this Court is inclined to grant liberty to the petitioner to make a fresh representation before the authorities concerned for appropriate orders. It is needless to mention that this order will not stand in the way of considering the petitioner's representation by the authorities concerned.

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11. With the above observation, this Writ Petition stands disposed of.

No costs. Consequently, connected miscellaneous petitions are also closed.

[D.K.K., J.] & [R.V., J.]
23.12.2022

Index : Yes / No

Internet : Yes / No

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To

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