



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 24.02.2023

CORAM

THE HONOURABLE MR. JUSTICE C.V.KARTHIKEYAN

W.P.No.1969 of 2023

N.Chandran

... Petitioner

..Vs..

1. The District Collector
Collectorate Building
7/1, State Bank Road,
Gopalapuram
Coimbatore,
Tamil Nadu – 641 018.
2. The Sub Collector
Sub Collector Office
Palakadu Road, Pollachi – 642 001.
3. The Chief Engineer, P.W.D.,
W.R.O.,
Pollachi Region,
Town Hall, Coimbatore – 641 001.
4. The Superintending Engineer
PWD WRD,
Parambikulam Aliyar
Basin Circle,
Pollachi.



5. The Executive Engineer
PWD, WRD,
Parambikulam Division
Parambikulam.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India, praying for the issue of a Writ of Mandamus directing the respondents to remove the gate erected in pathway situated in S.F.No. 452/3, and to provide free access to my agricultural land situated adjacently in S.F.No.408/2A through the road in S.F.No. 408/1.

For Petitioner

:: Ms. S.Akila

For Respondents

:: Mr. T.Seenivasan
Special Government Pleader

ORDER

The Writ Petition has been filed in the nature of Mandamus seeking a direction against the third to fifth respondents, namely, the Chief Engineer, PWD/WRO, Pollachi Region, Town Hall, Coimbatore, the Superintending Engineer, PWD/WRD/ Parambikulam Aliyar Basin Circle, Pollachi and the Executive Engineer, PWD/WRD, Parambikulam Division, Parambikulam, to remove a gate which had been put up in the pathway situated in S.F.No.



452/3 and to provide free access to the lands of the petitioner which is situated in adjacent S.F.No. 408/2A through the road in S.F.No. 408/1.

2. The third to fifth respondents had put up a gate in S.F.No. 452/3. All these survey numbers and the lands are situated at Kottur Village, Anaimalai Taluk. Quite close to the said lands, Aliyar Dam is also situated. Naturally, the Public Works Department have a duty to ensure that there are no intruders, who have access to the said dam. Among other steps taken by them was to put up this particular gate.

3. The Court was originally of the impression that the gate was actually put up within the lands of the petitioner. It is not the case. The gate was put up outside the land of the petitioner. The petitioner still has a grievance stating that they are not able to access their own lands.

4. A status report has been filed by the respondents wherein it had been stated that this particular gate had been put up to prevent intruders and it was also stated that the petitioner and the other land owners have been advised to seek an alternate way adjacent to the Public Works Department land to access their lands.



5. The learned counsel for the petitioner however states that if the gate is shifted about 100 mts that would prevent the intruders and also simultaneously provide access to the lands of the petitioner herein.

6. These are issues which can be examined only by the officials, who are at the site. The security of the Dam is important. There cannot be any compromise on that particular aspect. It is also stated by the respondents in their instructions that during the patrol, they saw many cars and two wheelers entering into the Dam premise for unauthorised activities. They approached the dam through this approach road located in S.F.No. 452/2 & 452/3. The intruders, who enter the premises, are also damage the dam instruments established for monitoring the stability of the dam and also enter the water spread for enjoying the water and also consume alcohol in that place. It is also stated that there have been many accidents and suicides which occurred in the water spread of Aliyar particularly in the right flank end. It is also stated that to avoid purchasing entry ticket of Rs.250/- in Aliyar park, photographers come to the end of the right flank at zero point and take photo shoots.



7. It is also stated that Aliyar Dam comes under the category of a Large Dam and that the safety of the Dam is predominantly more important.

8. However, the learned counsel for the petitioner stated that while appreciating the safety of the Dam is important, the intruders do not go through this particular road where the gate has been put up.

9. The difficulties which the petitioner faces are that they are not able to access their agricultural land in SF.No. 452/3. It is therefore stated that their right to have an access has been violated. The petitioner had also filed a complaint before the police on 27.07.2022 against the Public Works Department Officials. A representation had also been given to remove the gate. The petitioner had also applied under Right to Information Act seeking information regarding the right of the public over the said road from Puliangandi to Aliyar Dam by PWD. A further representation had been given on 22.09.2022.

10. The petitioner should understand that the safety of the dam must be kept in mind. The petitioner having land close to that place must



also to ensure that the lands are not accessed by intruders or by third parties. Further, the road leading to the land of the petitioner should not be an access path for such intruders. The petitioners must join hands with the PWD Officials in ensuring safety of the Dam. If the petitioner is of the opinion that the gate which had been put up has prevented access to their lands, then they can engage in a discussion with the PWD.

11. In the instructions forwarded, the respondents have stated that not only the petitioner but also other land owners have been advised to arrange alternate path to their lands. It is also stated that security personal have given instructions to open the gate for the petitioner specifically and for any other visitors visiting the property till they obtain access in any other way.

12. The petitioner can engage in a discussion with the respondents and examine an alternate way which can be provided though which they can access their lands. They should also be responsible and ensure that the dam is not encroached by third parties.



13. It is also stated by the learned Special Government Pleader that an apprehension has been raised that the petitioner might put up a resort and it is for that purpose that access is being insisted by the petitioner herein. Let the petitioner and the third to fifth respondent engage in a conversation about the entire aspect.

14. The respondents have a duty to protect the dam and if a gate is required, then the gate is required. The petitioner is given an option to engage in a conversation with the third to fifth respondents but till an alternate solution is reached, let the gate remain.

15. The Writ Petition stands disposed of. No order as to costs.

24.02.2023

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Index: Yes/No

Internet: Yes/No

Speaking / Non Speaking Order



To

WEB COPY

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C.V.KARTHIKEYAN, J.,

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