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WP.No.8039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.03.2023

CORAM :

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

WP.No.8039 of 2023

J.Krishnakumar

.. Petitioner

-Vs-

1. The Director,
Vigilance and Anti-Corruption,
293, MKN Road, Alandur,
Chennai - 600 016.
2. The Additional Deputy Superintendent of Police,
Vigilance and Anti-Corruption,
4, Ramasamy Nagar, 1st street,
Koundampalayam,
Coimbatore - 641 030.
3. The Director,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road, MRC Nagar,
Chennai - 600 028.
4. The Director,
Town and Country Planning,
No.807, Anna Salai,
Chennai - 600 002.

.. Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India to issue a writ of mandamus to direct the 1st and 2nd respondent to take action against the erring officials in the 3rd and 4th respondent department based on the representation of the petitioner dated 11.01.2023 and 19.01.2023.



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For Petitioner : Mr.V.Srimathi

For Respondents : Mr.N.S.Suganthan, GA (Crl.side)

ORDER

The writ petition has been filed seeking a direction to respondents 1 to initiate action against the erring officials of respondents 3 and 4 based on his representations dated 11.01.2023 and 19.01.2023.

2. The petitioner claims himself to be a public interest litigant. He is said to have brought to the notice of this Court about some illegal constructions and encroachments alleged to have taken place in and around the Districts of Pollachi and Coimbatore by filing a Writ Petition in W.P.No.3995 of 2019 for a mandamus to consider his representation and remove the illegal constructions/encroachments, wherein this Court had passed an order dated 09.03.2020 with the following observation:-

"3. We are not in a position to give a positive order on two counts. Firstly, appeals have been preferred before the Deputy Director of Town and Country Planning, Coimbatore District. Secondly, the violators are not before us. In such view of the matter, we direct the Deputy Director of Town and Country Planning,



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Coimbatore District, to dispose of the appeals filed by the alleged violators of Mahalingapuram layout in Pollachi Town, within a period of twelve weeks from the date of receipt of a copy of this order. We further direct respondent No.3 to see to it that no such violation takes place in future as we find that such violations have taken place over the years under the eyes of respondent No.3 who has turned blind eye discretionally encouraging such activities to go on. Respondent No.3 is also directed to regulate the parking on the roads situated in Mahalingapuram layout. The petitioner is also given liberty to implead himself as party respondent in the pending proceedings before the Deputy Director of Town and Country Planning, Coimbatore District."

3. The case of the petitioner is that despite the above order passed by this Court, the authorities have not complied with the direction and thereby the petitioner had initiated proceedings to punish the respondents for contempt, which is pending.

4. Whiles, it is claimed by the petitioner that on 09.01.2021, the petitioner had filed a complaint to the Commissioner, Pollachi Municipality against the encroachment in the main road of Pollachi by Ayyapassamy Thirukovil for construction of Mandapam and on such petition, after issuing show cause notice to the Executive Officer of the



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temple and after considering the reply, the Commissioner had passed an order on 10.01.2022 to stop the construction work until obtaining necessary permission, however, no permission was obtained, but, the encroachment and constructions were proceeded.

5. Alleging some similar instances, the petitioner appears to have made representations on 11.01.2023 and 19.01.2023 to the third respondent herein viz., the Director, Municipal Administration, Chennai seeking the authority to initiate action against some officials.

6. Subsequently, blaming that there is inaction on the part of the officials of the third and fourth respondent which discloses that they had indulged in rampant corruption by shutting their eyes on the issue of encroachments, violation and illegal constructions, the present writ petition has been filed on 23.2.2023 seeking a direction to respondents 1 and 2, viz., the Director and Additional Deputy Superintendent of Police, Vigilance and Anti Corruption, to take action against the officials of the third and fourth respondent Departments.

7. When the matter was taken up for hearing, learned Government Advocate (Criminal Side), by producing copies of



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communication from the first respondent, would submit that the representation of the petitioner dated 11.01.2023 was received only on 07.02.2023 and finding that the allegations levelled by the petitioner in the representation were general in nature requiring verification of documents by the Head of the Department concerned, they had forwarded the representation of the petitioner to the third respondent on 10.2.2023 for taking appropriate action and the same was also duly intimated to the petitioner by letter dated 10.2.2023 and thus, the petitioner has to seek his remedy before the authority concerned.

8. Heard learned counsel appearing for the petitioner, the learned Government Advocate (Criminal Side) and perused the materials available on record and also the communication of the first respondent dated 10.02.2023.

9. The allegation of the petitioner is that he is much concerned about the encroachments and illegal constructions in and around Pollachi and Coimbatore and he had already initiated proceedings before this court by filing a writ petition and an order came to be passed directing the authorities therein to prevent violation and



regulate the parking on the roads.

10. It is relevant to note while giving such a direction, the observation made this court in the earlier writ petition filed by the petitioner makes a note about pendency of Appeals before the Deputy Director of Town and Country Planning, Coimbatore District filed by the alleged encroachers/violators and the fact that such violators were not arrayed as parties in that writ petition and such being the case, the court had directed the Deputy Director of Town and Country Planning, Coimbatore District, to dispose of the Appeals filed by the alleged violators of Mahalingapuram layout in Pollachi Town, within a period of twelve weeks from the date of receipt of a copy of that order. Subsequently, it appears that the petitioner had initiated contempt proceedings also alleging non-compliance of the order passed by this court.

11. In this scenario, the petitioner, had filed the present writ petition, dumping with certain allegations against some officials on mere presumptions that they are hand in glove with the violators and seeking for a direction to the Director and Additional Deputy Superintendent of Police, Vigilance and Anti-Corruption to initiate action against the officials of the third and fourth respondent.



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12. It will not be fair enough on the part of the respondent-authority of Vigilance and Anti-Corruption to proceed against any Government officials merely on general and vague allegations without any concrete proof and hence, they have rightly forwarded the representation of the petitioner to the Head of the Department, being the competent authority, for verifying the documents and necessary action.

13. In view of the developments in this case brought to the notice of this court by the learned Government Advocate, this court is of the view that it is highly premature for this court to enter into the domain of the respondents at this stage. Accordingly, the writ petition is closed without any positive direction to the respondents. It is made clear that the petitioner is at liberty to approach the authority concerned for appropriate relief. No costs.

17.03.2023

tsh/ssk

To

1. The Director,
Vigilance and Anti-Corruption,
293, MKN Road, Alandur,
Chennai - 600 016.



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2. The Additional Deputy Superintendent of Police,
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3. The Director,
Directorate of Municipal Administration,
75, Urban Administrative Building,
Santhome High Road, MRC Nagar,
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4. The Director,
Town and Country Planning,
No.807, Anna Salai, Chennai - 600 002.
5. The Public Prosecutor
High Court, Madras.



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A.D. JAGADISH CHANDIRA. J.,

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