



WP No.16233 and 14976 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.11.2023

CORAM

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

WP No.16233 and 14976 of 2022
and WMP Nos.15581, 15582, 14196 and 14197 of 2022

W.P.No.16233 of 2022

K.Chellaperumal

.. Petitioner

-VS-

1. State of Tamil Nadu

Rep. by its Secretary to Government,
Rural Development and Panchayat Raj
Department, Fort St. George,
Secretariat, Chennai 600 009.

2. The Director,

Rural Development and Panchayat Raj
Panagal Maaligai, Saidapet, Chennai 600 015.

3. The District Collector,

Nagercoil, Kanyakumari District.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the Government Order dated 08.03.2022 made in G.O.Ms. No.23, Rural Development and Panchayat Raj (SGS.1) Department on the file of the 1st respondent and quash the same in so far as the same relates to the tendering is concerned and direct the respondents to allow the Village Panchayats to carry out the works under "Anaithu Grama Anna Marumalarchi Thittam-II (AGAMT-II).



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WEB CC **W.P.No.14976 of 2022**

S.Sivakumar

.. Petitioner

-vs-

1. The Government of Tamil Nadu
Rep. by its Principal Secretary to Government,
Rural Development and Panchayat Raj
Department, Secretariat, Chennai 600 009.
2. The Director,
Rural Development and Panchayat Raj Dept.,
Panagal Maaligai, Saidapet, Chennai 600 015.
3. The District Collector,
Cuddalore District,
Cuddalore 607 001.
4. The Additional District Collector (Dev)/
Project Director, DRDA, Cuddalore District,
Cuddalore 607 001.
5. Block Development Officer,
Annagramam Panchayat Union,
Cuddalore District 607 001.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records connected with the proceedings of G.O.Ms. No.23, Rural Development and Panchayat Raj (SGS.1) Department dated 08.03.2022 issued by the 1st respondent in so far as Clause 7.5 of the guidelines for the said G.O. is concerned and quash the same as illegal in so far as usurping and causing prejudice to the right of Panchayat and consequently direct the respondents to ensure the effective participation of Panchayat Presidents in inviting the tender and its acceptance and whether individual or packaged.



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For the Petitioner
in WP.16233/2022 : Mr.Subaiah
Senior Counsel
for Mr.A.V.Arun
in WP.14976/2022 : Mr.P.Belman
For the Respondents
in both WPs : Mr.R.Shunmugasundaram
Advocate General
assisted by Mr.K.M.D.Muhilan
Addl. Government Pleader
* * * * *

COMMON ORDER

(Made by the Hon'ble Chief Justice)

We have heard Mr.Subbiah, learned Senior Counsel for the petitioner in WP.No.16233 of 2022, Mr.P.Belman, learned counsel for the petitioner in WP No.14976 of 2022 and Mr.R.Shunmugasundaram, learned Advocate General, assisted by Mr.K.M.D.Muhilan, learned Additional Government Pleader for the respondents.

2. One of the writ petitions is filed in the nature of public interest and both the writ petitions challenge the Government Order dated 08.03.2022 in respect of the tendering clause 7.5 prescribing the Additional Collector (Dev)/Project Director, DRDA as the tender inviting authority and the District Collector as the tender accepting



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authority.

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3. The learned Senior Advocate for the petitioner in W.P.No.16233 of 2022 submits that Rules are framed as per sub-section (2) of Section 242 of the Tamil Nadu Panchayats Act, 1994 (in short 'the Act'), namely, Tamil Nadu Panchayat (Preparation of Plans and Estimates for Works and Mode and Conditions of Contracts) Rules, 2007. As per the same, the tender inviting authority is the President of the Panchayat with regard to the scheme works entrusted to the Village Panchayat and the General Fund work of the Village Panchayat. However, the government order is now issued giving power to the Additional Collector to invite tender. The same is illegal and contrary to the spirit of the Rules and the Act. The Panchayat knows better the works to be carried out. The decision of the works to be carried out has to be taken by the Selection Committee and approved by the Grama Sabha. The power bestowed upon the Additional Collector for inviting tender is erroneous.

4. The learned Advocate General submits that a fresh Government Order is issued on 07.09.2022 wherein the tender



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inviting authority would be the Block Development Officer. According to the learned Advocate General, sometimes two or three works of different nature and of different villages are clubbed together and in that event, it would not be feasible for one village panchayat to invite tender.

5. Now, the Government Order says that it would be the Block Development Officer who would be the tender inviting authority in place of the Additional Collector.

6. The Block Development Officer is the Chief Executive Officer as per the provisions of the Act. The Rules as framed provide that in two types of cases, that is, general fund works of Village panchayat and scheme works entrusted to the village panchayat, the tender inviting authority is the President. For all other works, that is, scheme works entrusted to the Block Development Officer (Village Panchayats), General Fund works of Panchayat Union, Scheme works entrusted to Panchayat Union and the Scheme works entrusted to Block Development Officer (Block Panchayat), the tender inviting authority is the Block Development Officer.



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7. It also further needs to be considered that as per the Rules, if the work is entrusted to the Block Development Officer, then the Block Development Officer is the tender inviting authority. So, it would depend upon the nature of work and the authority or person to whom the work is entrusted. If the work is entrusted to the Block Development Officer, then the tender inviting authority would be the Block Development Officer. No blanket order can be passed in that regard. Moreover, the petitioner in W.P.No.16233 of 2022 is not the President of the Panchayat and he is only a Ward Member, though the petitioner in W.P.No.14976 of 2022 is the President of P.N.Palayam Panchayat. The cases will have to be considered with regard to the specific tender and as such, no blanket order can be passed.

With these observations, the writ petitions are disposed of. There will be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.V.G., CJ.)

(D.B.C., J.)

22.11.2023



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Index : Yes/No

Neutral Citation : Yes/No

sra

To

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Secretariat, Chennai 600 009.
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THE HON'BLE CHIEF JUSTICE
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D.BHARATHA CHAKRAVARTHY, J.

(sra)

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