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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.17427 of 2023
and W.M.P No.16576 of 2023

T.Arumugam

Petitioner

VS.

1.The District Collector,
Chengalpattu District.
Chengalpattu.

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
7th and 8th Floor, Urban Administrative Office Campus,
Chennai – 600 028.

3.The Assistant Director (Panchayat),
Chengalpattu District,
Kancheepuram.

4.The Executive Officer,
Edaikazhinadu Town Panchayat,
Kadapakkam, Cheyyur Taluk,
Chengalpattu District – 603 304.

5.The President,
Edaikazhinadu Town Panchayat,
Kadapakkam, Cheyyur Taluk,
Chengalpattu District – 603 304.

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned tender notification of the 4th respondent, dated 12.05.2023 in Na.Ka.No.74/2023 and quash the same and consequently, direct the 4th respondent to include the works mentioned by the petitioner in his representation dated 02.05.2023.

For Petitioner : Mr.M.Selvam

For Respondents : Mr.C.Selvaraj
Additional Government Pleader for R1 to R3

Mr.G.Velu
Additional Government Pleader for R4 & R5

ORDER

This writ petition has been filed by the Ward Member of the Edaikazhinadu Town Panchayat, Cheyyur Taluk, Chengalpattu District challenging the tender notification issued by the 4th respondent in Na.Ka.No.74/2023 dated 12.05.2023.

2.Heard Mr.M.Selvam, learned counsel appearing on behalf of the petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing on behalf of the respondents 1 to 3 and Mr.G.Velu, learned Additional Government Pleader appearing on behalf of the respondents 4 & 5.

3.The case of the petitioner is that the Town Panchayat Union does not have adequate infrastructure facilities and the choice of tender work has been influenced



only by political consideration. The further complaint of the petitioner is that the tender work has been specifically called and carried out only in the Wards that have elected the candidates belonging to the ruling party. According to the petitioner, out of 21 members in the panchayat union, 11 belong to the ruling party including the independent Ward member and four members belong to the opposition party. The petitioner also gave a representation to the 1st respondent to allot tender works to provide adequate civic amenities and infrastructure by identifying certain places. When this representation was pending, the 4th respondent issued the impugned tender notification dated 12.05.2023 calling for applications to lay tar roads/infrastructure works in five Wards which have the elected members of the ruling party. According to the petitioner, no meeting was conducted in this regard and the President has straight away taken a decision and the 4th respondent has issued the tender notification. Aggrieved by the same, the present writ petition has been filed before this Court.

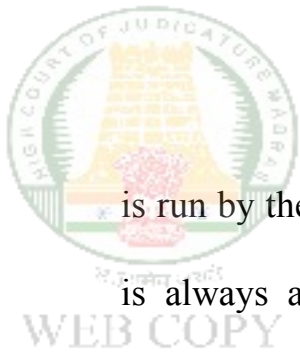
4. When the matter was taken up for hearing, this Court questioned the learned counsel for the petitioner as to how a Ward Member can challenge the tender notification issued by the Town Panchayat through the Executive Officer. The learned Counsel brought to the notice of this Court, the judgment in *Ramu vs. The Secretary to Government, Municipal Administration and Water Supply Department and Others* in W.P(MD) No.7444 of 2020, dated 21.07.2020. The learned counsel



submitted that this Court has held that the Ward Member has the *locus standi* to challenge the tender notification and that the said judgment will apply to the facts of the present case.

5. In the considered view of this Court, the judgment that was cited by the learned counsel for the petitioner has absolutely no application to the facts of the present case. That was a case where the tender notification was issued by the Block Development Officer by usurping the role of the Panchayat Union Council in violation of the Tamil Nadu Panchayat Act. This Court took into consideration the fact that for the tender works valued more than Rs.50,000/-, the proposal must emanate from the local body concerned and the Block Development Officer can submit the proposal only when there is no elected local body. This Court took into consideration the constitutional provisions in this regard and emphasized the sanctity of the elected body and their powers which was attempted to be taken away by the executive.

6. In the facts of the present case, there is an inner fight that is going on between the Ward Members based on political affiliation. According to the petitioner, the infrastructure facilities are not provided to the Wards from which the members were selected belonging to opposition party and that preference is only given to the Wards from which persons were elected from the ruling party. In a democracy which



is run by the Government which has the mandate of the majority of the people, there is always a grievance that the Government is not taking into consideration the interest of those Wards from which persons have been elected from the opposition party. This is a dispute which has to be set right only in a democratic manner during the next elections. This issue can never be raised to challenge a tender notification issued in line with the recommendation made by the local body. In otherwords, the grievance that has been expressed by the petitioner has to be handled through a democratic process and it cannot be done by stopping the tender process which will tantamount to stopping the work to improve the infrastructure facilities in some of the Wards. The difference in opinion between the Ward Members should not result in the people not getting the infrastructure facilities wherever it is required.

7.The petitioner and other Ward Members belonging to the opposition party may be having a genuine grievance, but however, that is not a ground for the petitioner to challenge the tender notification. In otherwords, stopping the tender notification should not be used as a pressure tactic to ensure that the tender notifications are issued for the Wards belonging to the Councilors elected from the opposition party. A writ petition cannot be entertained by this Court where a Ward Member proceeds to challenge a tender notification issued by the local body in which the petitioner is also one of the Councilor. If the petitioner has a grievance that the President is not convening any meeting and decisions are being taken unilaterally



without consulting the elected Ward Members, it is left open to the petitioner to make a fresh representation to the District Collector and the same will be considered on its own merits and in accordance with law.

8. In the light of the above discussion, this Court does not find any ground to entertain this writ petition. Accordingly, this writ petition stands dismissed. No Costs. Consequently, connected miscellaneous petition is closed.

12.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
ssr

To

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N. ANAND VENKATESH, J.

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