



W.P.No.31732 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2023

CORAM :

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

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

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The Village Panchayat Presidents Association
Rep. by its Treasurer, C.Vasanthakumar
No.171, Road Street
Kadaladi Village & Post
Kalasapakkam Panchayat Union
Tiruvannamalai District.

.. Petitioner

Vs.

1. The Secretary to Government
Pradhan Mantri Adarsh Gram Yojana (PMAGY)
Department of Social Justice & Empowerment
Government of India, New Delhi.
 2. The Principal Secretary to the Government
Department of Rural Development and Panchayat Raj
Secretariat, Chennai – 600 009.
 3. The Commissioner
Department of Rural Development and Panchayat Raj
Panagal Building, Saidapet
Chennai – 600 015.
 4. The District Collector
Tiruvannamalai District
Collectorate, Tiruvannamalai.
- .. Respondents



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Prayer: Petition filed under Article 226 of the Constitution of India seeking a writ of certiorarified mandamus, calling for he entire records relating to the order dated 11.10.2023 made in Se.Mu. No.0923/2023/A11 (2nd order) on the file of the fourth respondent herein and quash the same and consequently direct the fourth respondent to implement the order dated 11.10.2023 made in Se.Mu.No.0923/2023/A11 (1st order) in respect condition No.4 without modification.

For the Petitioner : Mr.C.Munusamy
for Mr.L.P.Shanmugasundaram
For the Respondents : Mr.K.Karthik Jagannath
Government Advocate
for R2 to R4

ORDER

(Made by the Hon'ble Chief Justice)

Heard Mr.C.Munusamy, learned counsel appearing for Mr.L.P.Shanmugasundarm, learned counsel for the petitioner and Mr.K.Karthik Jagannath, learned Government Advocate for respondents 2 to 4.

2. Learned counsel for the petitioner submits that two orders were passed on the same date by the Collector. In the first order, the Collector permitted the President of the Panchayat to call for tenders and the Block Development Officer was to finalize the tenders for the



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works to be done in the village. In the afternoon, another order came to be passed and the right of the President of the Panchayat to invite tenders is now modified and sought to be vested with the Block Development Officer.

3. Learned counsel for the petitioner submits that as per Article 243G of the Constitution of India, the Legislature has to endow the Panchayat with powers and authority to enable them to function as an institution of self-government. The powers are with regard to the preparation of plans for economic development and social justice, also the implementation of scheme for economic development and social justice, as may be entrusted to them including those in relation to the matters listed in the Eleventh Schedule of the Constitution of India. The works that are to be carried out by inviting tenders are enlisted in the Eleventh Schedule.

4. Learned counsel for the petitioner further submits that the President of the Panchayat, being an elected representative, it is the bounden duty of the elected representative to see that the work is



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done in the village effectively and properly. The elected representative cannot be sidelined in such a manner. In other village Panchayats, powers are given to the President to invite tenders and finalization of the tenders is by the Block Development Officer. The petitioner is seeking some relief in the matter.

5. According to the learned Government Advocate, tenders have already been issued and finalized.

6. Article 243G of the Constitution of India empowers the Government to enact law, so as to bestow the powers to the Panchayat and also to enable them to function as a self-government. It is after a law is enacted by the Legislature, giving powers to the Panchayat, the Panchayat has to function within the framework of the State Legislation. Article 243G of the Constitution of India has cast an obligation upon the Legislature to enact a law.

7. Pursuant to Article 243G of the Constitution of India, the Tamil Nadu Panchayats Act, 1994 [for brevity, "the Act of 1994"] has been



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enacted by the State Legislature. It is within the framework of the Act of 1994, the authorities have to proceed further. As per Section 2(11) of the Act of 1994, an Executive Authority means a person notified as such by the Government under Section 83 of the said Act. Under Section 83 of the Act of 1994, the Government may, by notification, appoint any person, who shall, subject to such rules as may be prescribed, exercise the powers and perform the functions of the Executive Authority of a Village Panchayat.

8. We have been told that under Section 83 of the Act of 1994, the Block Development Officer has been appointed as the Executive Officer of the Panchayat.

9. All the contracts certainly will have to be entered into by the Executive Officer and in view of that, we do not find any error in the order impugned in the present matter. Moreover, an elected representative should be more interested in overseeing the work done for the benefit of the villagers, instead of just keeping themselves limited to the issuance of tenders. The works are already earmarked,



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administrative sanction has to be granted by the District Collector and/or the authority concerned and pursuant to the administrative and technical sanction, tenders will have to be issued. Mere issuance of tenders by a particular person cannot be said to affect any right, much less, the vested right. Moreover, it has not been shown from the Act of 1994 that the President is authorized to issue tenders. That apart, it is already stated that tenders are finalized.

10. In view of all the aforesaid, we are not inclined to interfere with the impugned order. Accordingly, the writ petition stands disposed of. There will be no order as to costs. Consequently, W.M.P.Nos.31362 to 31364 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

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Index : Yes/No

Neutral Citation : Yes/No

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THE HON'BLE CHIEF JUSTICE
AND
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