



W.P(MD)No.2670 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

**W.P(MD)No.2670 of 2023
and
W.M.P(MD)Nos.2434 and 2435 of 2023**

D.Raju

... Petitioner

Vs.

- 1.The state represented by its
Secretary,
Revenue & Disaster Management Department,
Secretariat,
Chennai.
- 2.The Director,
Rural Development and Panchayatraj Department,
Saidapet,
Chennai.
- 3.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 4.The Director,
District Rural Development Department,
Ramanathapuram.
- 5.The Block Development Officer,
Thirupulani,
Ramanathapuram District.



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6.R.Rajendran,
The Block Development Officer,
Thirupulani,
Ramanathapuram District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned tender notice in Na.Ka.No.A2/603/2021 passed by the respondent No.5 dated 31.01.2023 and quash the same as illegal and consequently direct the respondent Nos.1 to 4 to take appropriate action against the respondent No.6 by considering the petitioner's representation dated 07.02.2023 within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan

For R1 to R5 : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.J.Ashok,
Additional Government Pleader

ORDER

This writ petition has been filed in the nature of Certiorarified Mandamus relating to the notice issued in Na.Ka.A2/603/2021 by the fifth respondent / Block Development Officer, Thirupulani, Ramanathapuram District dated 30.01.2023 and quash the same and direct the 1 to 4 respondents to take necessary action against the fifth respondent who had been impleaded in his



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personal name as the sixth respondent. The petitioner had given a representation dated 07.02.2023 in this regard.

2. The tender notification which had been complained by the petitioner herein dated 30.01.2023 in Na.Ka.No.A2/603/2021 was with respect to demolition of six separate primary school buildings which were apparently in a dilapidated stage at Kalari(2), Nallirukkai, Komboothi, Kuthakkottai and at Uthirakosamangai in Ramanathapuram District. The date of the tender as stated was 30.01.2023 and the prospective bidders were to submit their bids by 08.02.2023 and bids were to be opened on 09.02.2023. The writ petition came to be filed on 08.02.2023, even before the bids could be either opened or finalized.

3. In the affidavit filed in support of the writ petition, it had been stated by the writ petitioner that the tender process itself has to be interfered with by this Court, since, the school buildings for which the tender was issued for demolition had actually been demolished and it was therefore stated that there was no point in issuing the tender and proceeding further with the tender notice. In this regard, photographs of the particular places where the school buildings had stood and had been demolished had been also produced as documents



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along with the writ petition. A learned Single Judge of this Court before whom the writ petition came up for admission, had also observed the said photographs and had stated as follows in the noting dated 09.02.2023.

"2. The case of the petitioner is that even though the tender notification was issued calling for tenders for demolishing eight school buildings, even before the last date for submission of the bids, the buildings had been demolished. That led to the filing of this writ petition.

3. Photographs have also been enclosed in the typed set of papers. When the matter was taken up for hearing, the learned Additional Government Pleader submitted that the tender process had already commenced.

4. To a pointed question as to whether the allegation of the petitioner is true, the learned Additional Government Pleader admits that two buildings in Nallirukkai and Komboothi had been demolished and the remaining four buildings are intact.

5. Call this case on 13.02.2023 immediately after admission.

6. The third respondent is directed to file a detailed counter affidavit. It is open to the petitioner to take photographs and also file an additional affidavit. The District Collector has to state that the steps taken against the persons who had demolished two school buildings even before the tender process was completed."

4. The matter was then listed on 27.03.2023, for filing of counter and typed set of papers which have been filed on behalf of the respondents.



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5. Heard the learned counsel for the petitioner and the learned Additional Advocate General on behalf of the respondents. Learned counsel for the petitioner, took the Court through the tender notification and the terms of the tender notification which necessitated that prospective bidders should submit the bids on or before 08.02.2023, and that the bids will be opened on 09.02.2023. He pointed out that the purpose for the tender notification was for demolition of six dilapidated school buildings. He then took the Court to the photographs which had also been examined by my learned predecessor which showed that the buildings had actually been demolished even before the tender notification was issued or even before the bids could be opened. Therefore the learned counsel argued that the tender had been issued for work which had already been done and therefore motive was alleged against the Block Development Officer who had been impleaded as the fifth respondent in this writ petition. It had been stated that by giving a contract for demolition of buildings which had already been demolished, would only incur public expenditure and the learned counsel also stated that an enquiry should be done and an action should be taken against the Block Development Officer, Thirupulani, Ramanathapuram District.



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6. Learned Additional Advocate General on the other hand stated that as soon as the fact came to the knowledge of the respondents, they had taken correctional steps. It had been pointed out by the learned Additional Advocate General that immediately on coming to know that the buildings have been demolished, necessary enquiry was made. It was then found that two of the contractors, V.Anantham and M.Subramanian, to whom, construction of the school buildings have been awarded, had taken possession of the particular places and in their zest had demolished the building even without obtaining permission. After this aspect had been found out during enquiry, necessary letters were also received from the said two contractors who had expressed apology for the same. But the respondents were not satisfied with that and therefore complaint had also been given before the Uthirakosamangai police station in CSR No.16 of 2023 on 14.02.2023. However, the police officials had stated that it was a civil dispute and had refused to register a first information report.

7. Thereafter, separately, penalty has been imposed on the two contractors. A sum of Rs.22,970/- (Rupees Twenty Two Thousand Nine Hundred and Seventy only) as penalty has been imposed on V.Anantham and he



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was also banned from participating in any Government contract for a period of three months. Similarly, a penalty of Rs.23,970/- (Twenty Three Thousand Nine Hundred and Seventy only) and a sum of Rs.12,970/- (Rupees Twelve Thousand Nine Hundred and Seventy only) had been independently imposed on the other contractor M.Subramanian who was also banned from participating in any Government contract for a period of three months. It had also been pointed out by the learned Additional Advocate General that both the contractors had remitted the said penalty through the Government Challan. It had been stated that the respondents had taken necessary action.

8. The learned counsel for the petitioner stated that however, the action should be taken against the fifth respondent / Block Development Officer.

9. I would leave the matter to rest at that. The complaint primarily was that tenders were issued for demolition of building which had already been demolished. That was the object in filing the writ petition. To that extent correctional steps have been taken by the respondents who had found that the contractors who had been awarded contract for construction of the buildings, had upon for themselves to demolish the dilapidated buildings and had thereafter given letters of apology and undertakings and had also been imposed



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with penalty and with further punishment of being banned for a period of three months from participating in Government contracts. The Block Development Officer has authority to issue tender but whether any action should be taken against him or not, is the prerogative of the District Collector, Ramanathapuram District and this Court should not enter into any discussion on the particular fact. But I would place on record the deep appreciation of the petitioner herein for bringing to notice this particular fact and also place deep appreciation on the District Collector, for having taken remedial measures and correctional steps soon after the issues had been brought to his notice. No further orders are required and this writ petition is disposed of. If the petitioner has any further grievances, he is always at liberty to proceed further in the manner known to law. No costs. Consequently, connected miscellaneous petitions are closed.

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NCC : Yes/No
Index : Yes / No
Internet : Yes/ No

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