



WP(MD)No.4274 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 06.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.4274 of 2019
and W.M.P(MD).No.3389 of 2019

S.Murugesan

.. Petitioner

vs.

1.The District Collector,
O/o.The District Collectorate Office,
Madurai,
Madurai District.

2.The Block Development Officer (Village Panchayat),
Melur Panchayat Union,
Melur,
Madurai District.

3.The Special Officer,
Keelavalavu Panchayat,
Melur Taluk,
Madurai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of a Writ of Ceritorarified Mandamus, calling for the records relating to the impugned order passed by the second respondent in his proceedings in Na.Ka.No.650/2017/Thi1 dated 01.02.2018 and quash the same as illegal and



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consequently direct the third respondent to disburse the arrear amount a sum of Rs.1,19,300/- with interest in the light of the order passed by the second respondent in his proceedings No.Na.Ka.No.829/60/01 dated 11.12.2006 within the period that may be stipulated by this Court.

For Petitioner : Mr.A.Nawas Khan
for M/s.Ajmal Associates

For Respondents : Mr.M.Ramesh
Government Advocate for R1 and R3
Mr.Aairam K.Selvakumar for R2

ORDER

This Writ Petition has been filed challenging the impugned order passed by the second respondent dated 01.02.2018, rejecting the request of the petitioner to disburse the bill amount of Rs.1,19,300/- (Rupees One Lakh Nineteen Thousand Three Hundred only) for having executed the work to the third respondent Panchayat.

2. The petitioner has participated in a tender floated by the third respondent Panchayat in the year 2006 for execution of certain works in the Panchayat. According to the petitioner, he has completed the work in time and the Union Engineer, Panchayat Union, Melur, issued a Contract Certificate and Work



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Completion report on 03.08.2006 itself. However, he was not paid the amount for the work executed by him. Therefore, he has filed a writ petition in W.P(MD).No.10950 of 2008 seeking a direction to the third respondent herein to disburse the bill amount of Rs.1,19,300/- and the said Writ Petition was disposed of, vide order, dated 21.04.2009, in the following terms:

“5.Accordingly, the petitioner is permitted to make a representation before the third respondent and in the event of the petitioner taking any such representation within a period of four weeks from the date of receipt of a copy of this order, the same shall be considered and disposed of by the third respondent on merits and as per law and in the light of the order passed by the second respondent dated 11.12.2006 within a period of eight weeks thereafter. It is made clear that I have not considered the merits of the matter and it is up to the third respondent to consider the issue purely on merits and as per law.

6.The Writ Petition is disposed of with the above direction. No costs. Consequently, connected M.P is closed.”

3. The learned counsel appearing for the petitioner submits that despite the order passed by this Court as early as on 21.04.2009, the amount has not been



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disbursed to the petitioner. The learned counsel also relied on the proceedings of the Assistant Director of Panchayat, Madurai, dated 26.07.2017, wherein, the Assistant Director has issued a direction to the second respondent to disburse the bill amount after verifying the records. While so, vide the impugned order, the second respondent has rejected the request of the petitioner by stating that since there is no record available in the Panchayat for the work which is said to have been executed by the petitioner, the petitioner is not entitled for a sum of Rs.1,19,300/-. Aggrieved over the same, the present Writ Petition has been filed.

4. Heard the learned counsel appearing for the petitioner, the learned Government Advocate appearing for the respondents 1 and 3 and the learned counsel appearing for the second respondent.

5. Though this Writ Petition has been pending from the year 2019, the respondents have not filed their response. The petitioner is agitating this issue from the year 2006. This Court, vide order, dated 21.04.2009 in the writ petition filed by him in W.P(MD).No.10950 of 2008, directed the President of Keelavalavu Panchayat, to consider the representation of the petitioner and dispose of the same in accordance with law and thereafter, the Assistant Director of Panchayat, vide



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proceedings, dated 26.07.2017, directed the third respondent to disburse the bill amount after verifying the record. However, the third respondent has rejected the request of the petitioner on the ground that there is no record available in the Panchayat. When the litigations are pending from the year 2006, in all fairness, the respondents ought to have preserved the documents. The respondents are not justified in taking a stand that they are not having relevant documents, and are not in a position to establish before this Court that full and final payment has been settled to the petitioner for the work executed by him. The reason given by the third respondent rejecting the request of the petitioner vide the impugned order, dated 01.02.2018 is not proper and therefore, the impugned order passed by the third respondent on 01.02.2018 is set aside. The petitioner shall furnish the materials if any, available with him to the third respondent in support of his claim within a period of four weeks from the date of receipt of a copy of this order. After receipt of the same, the third respondent is directed to consider the case of the petitioner in accordance with law and pay the bill amount with interest at the rate of 6% per annum within a period of 12 weeks thereafter.



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6. Accordingly, this Writ Petition is allowed. There shall be no order as to costs. Connected miscellaneous petition is closed.

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

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B.PUGALENDHI, J.

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