



W.P.(MD)No.11894 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.05.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.11894 of 2023

and

W.M.P.(MD).No.10324 of 2023

Kandasamy

... Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Assistant Director of Mines,
Sivagangai District,
Sivagangai.
- 3.The Regional Transport Officer,
Sivagangai District,
Sivagangai.
- 4.The Block Development Officer,
Kalayarkovil Panchayat Union,
Kalayarkovil,
Sivagangai District.
- 5.Smt.Vasuki

... Respondents



W.P.(MD)No.11894 of 2023

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PRAYER : Writ Petition is filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents 1 to 4 herein to take action against the fifth respondent herein from operating her tipper lorries having weight more than 35 to 40 tons in the rural road constructed by the petitioner between Oyyavantham Pechathkudi via Udaikulam and Sathrasankottai Sooranam Road to Oothikulam Via Ettiyarenthal, Oyyavanthan, Udaikulam Road under the Pradhan Mantri Gram Sadak Yojana, otherwise the petitioner will not be held liable for the damage of the above said roads.

For Petitioner : Mr.M.Thirunavukkarasu
For R1 to R4 : Mr.P.Subbaraj
Special Government Pleader
For R5 : Mr.P.Mohammed Suhail
for Ajmal Associates

ORDER

This writ petition has been filed for issuance of a writ of Mandamus, directing the respondents 1 to 4 to take action against the fifth respondent from operating her tipper lorries having weight more than 35 to 40 tons in the rural road constructed by the petitioner between



W.P.(MD)No.11894 of 2023

Oyyavantham Pechathkudi via Udaikulam and Sathrasankottai Sooranam Road to Oothikulam Via Ettiyarenthal, Oyyavanthan, Udaikulam Road under the Pradhan Mantri Gram Sadak Yojana.

2. Heard Mr.M.Thirunavukkarasu, learned counsel appearing for the petitioner. Mr.P.Subbaraj, learned Special Government Pleader takes notice for the respondents 1 to 4 and Mr.P.Mohammed Suhail, learned counsel appears for the fifth respondent.

3. I have carefully perused the materials available on record.

4. The contention of the petitioner is that he is a registered Class I Contractor. During the year 2021 – 2022, he was awarded a tender for laying a road between Sathrasankottai Sooranam Road to Oothikulam via Ettiyarenthal, Oyyavanthan, Udaikulam Road under the Pradhan Manthri Gram Sadak Yojana. The said work was allotted to him for a total value of Rs.5,00,00,000/-, vide work order dated 19.11.2022. The said work will be completed after pouring thar and he is entitled to complete the said exercise



W.P.(MD)No.11894 of 2023

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within a period of nine months from the date of handing over of the above said road. The petitioner further submits that the fifth respondent viz., Vasuki has obtained lease of quarry for mining gravel at the land in S.Nos. 142/2A and 143/2A in Poovali Village Group, vide proceedings of the Assistant Director of Mines, Sivagangai District dated 11.04.2023. The lease period to quarry the gravel is for three months and as such, the fifth respondent is using the tipper lorry and heavy vehicles to dig and transport the gravel using the village road constructed by him under the above mentioned contract. He further submits that on an average road constructed in village areas are required to cater to maximum of about 20 to 25 tones of vehicular and goods weight. The fifth respondent is transporting the gravel using tipper lorries and heavy vehicles beyond the permitted weight in the above mentioned village road. Hence, the petitioner has submitted a representation to the first respondent on 08.05.2023 and to the respondents 1 to 4 on 11.05.2023, seeking direction to the respondents 1 to 4 to take action against the fifth respondent from operating her tipper lorries with over load. Since the said representations have not been considered, the present writ petition has been filed.



W.P.(MD)No.11894 of 2023

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5. Mr.P.Subbaraj, learned Special Government Pleader appearing for the respondents 1 to 4 fairly submitted that the representation of the petitioner may be considered on merits.

6. Surprisingly, Mr.P.Mohammed Suhail, learned counsel appearing for the fifth respondent submitted that the petitioner is not entitled to make such a representation to the authorities concerned, because it is not his private property and he has been entrusted with the exercise of contract for the purpose of executing the Government contract of laying public road under the Pradhan Mantri Gram Sadak Yojana and he cannot make any kind of representation to the competent authorities preventing the fifth respondent from transporting the gravel in the public road, which is meant for public transportation. He further submitted that the petitioner has also filed another writ petition in W.P.(MD).No.1442 of 2023 on similar lines. Hence, the writ petition is liable to be dismissed.



W.P.(MD)No.11894 of 2023

WEB COPY

7. Per contra, the learned counsel appearing for the petitioner submitted that though it was with respect to the same road, it was pertaining to the implementation of the report filed by the fourth respondent to the first respondent dated 19.01.2023.

8. Taking into consideration of the above said facts, this Court, without going into the merits of the case, directs the respondents 1 to 4 to dispose of the petitioner's representation dated 11.05.2023, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order.

9. With the above direction, this Writ Petition is disposed of. No costs. Consequently, the connected Miscellaneous Petition is closed.

17.05.2023

NCC: Yes/No

Index : Yes / No

Speaking Order : Yes / No

Note: Issue order copy on 22.05.2023.



W.P.(MD)No.11894 of 2023

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To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Assistant Director of Mines,
Sivagangai District,
Sivagangai.
- 3.The Regional Transport Officer,
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Sivagangai.
- 4.The Block Development Officer,
Kalayarkovil Panchayat Union,
Kalayarkovil,
Sivagangai District.



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W.P.(MD)No.11894 of 2023

L.VICTORIA GOWRI,J.

akv

W.P.(MD)No.11894 of 2023

17.05.2023