



W.P.(MD).No.13557 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 17.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.13557 of 2020

and

W.M.P.(MD).Nos.11291 and 11292 of 2020

Ramu

... Petitioner

Vs.

1.The District Collector / Inspector of Panchayats,
Sivagangai District,
Sivagangai.

2.The Block Development Officer,
Thirupuvanam Panchayat Union,
Sivagangai District.

3.Mr.J.Jayakanthan, I.A.S.,
The District Collector / Inspector of Panchayats,
Sivagangai District,
Sivagangai.

4.The Assistant Director (Panchayats),
Sivagangai.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records pertaining to the impugned order of the first respondent dated 03.09.2020 in Na.Ka.A6/1184/2018-2 and quash the same.



W.P.(MD).No.13557 of 2020

WEB COPY

For Petitioner : Mr.J.Anandkumar

For Respondents : Mr.A.K.Manikkam,
Special Government Pleader.

ORDER

This Writ Petition is filed challenging the impugned order dated 03.09.2020.

2. The main contention of the petitioner is that once the elected Village Panchayat is available, then the District Collector or other authorities are not having any power to call for tender. In the present case, the District Collector has issued the Tender Notification dated 03.09.2020. The learned counsel has relied on the judgment rendered by Learned Single Judge in W.P.(MD)No.7444 of 2020 dated 21.07.2020. The relevant paragraph is extracted hereunder:

“14. The respondents 2 to 4 have not kept in view the constitutional objective as adumbrated above. A duly elected local body has been treated as non-existent and totally ignored in the process of decision-making. While the District Collector is the authority competent to accord administrative sanction for tender works valued more than Rs.50,000/-, the proposals must emanate from the local body concerned. If there is no elected local body, the Block Development Officer can submit proposals. Unless it is a case of emergency, it is the local body that must deliberate and made the proposals. The learned counsel for the



WEB COPY



W.P.(MD).No.13557 of 2020

petitioner has convincingly established that the impugned tender notification was issued by the third respondent by usurping the role of the Panchayat Union Council and by violating the provision of the Tamil Nadu Panchayats Act, 1994. The third respondent cannot invoke either Section 86 or Section 261-A of the Act to sustain the impugned tender notification which clearly lacks jurisdiction. It is quashed. The writ petition stands allowed”.

3. Therefore, following the aforesaid judgment, this Court is of the considered opinion that the District Collector is not having any power to conduct tender, more so when the elected council is available. Hence, the impugned order is quashed.

4. At the time of admission, this Court has granted an order of interim stay in respect of items 3 and 4. Liberty is granted to the elected council to issue fresh tender notification for the items 3 and 4.

5. As far as other items are concerned, this Court had directed the Panchayat not to draw the funds from the Panchayat account. The learned Special Government Pleader for the respondents submitted that as on date, the entire work is completed and because of interim order, the payment is not disbursed. Since this Court has passed the final order in the above writ petition that the District Collector is not having power to call for tender, then the tender for other items is also illegal. But this Court has not granted any interim order



W.P.(MD).No.13557 of 2020

not to grant tender for other items. In such circumstances, the payment for the work completed cannot be stopped. Therefore, the respondents are directed to disburse the amount for the other items.

6. With the above direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.07.2023

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

To

- 1.The District Collector / Inspector of Panchayats,
Sivagangai District,
Sivagangai.
- 2.The Block Development Officer,
Thirupuvanam Panchayat Union,
Sivagangai District.
- 3.Mr.J.Jayakanthan, I.A.S.,
The District Collector / Inspector of Panchayats,
Sivagangai District, Sivagangai.
- 4.The Assistant Director (Panchayats),
Sivagangai.



WEB COPY



W.P.(MD).No.13557 of 2020

S.SRIMATHY, J.

Nsr

W.P.(MD).No.13557 of 2020

17.07.2023