



W.P.(MD)No.9959 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 11.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.9959 of 2017
and
W.M.P.(MD)No.7626 of 2017

Marimuthu

... Petitioner

versus

1. The District Collector,
Virudhunagar District,
Virudhunagar.
2. The Assistant Director of Panchayat,
Rural Development Department,
Virudhunagar District,
Virudhunagar.
3. The Special Officer cum
the Assistant Director of Auditing,
Rural Development Department,
Srivilliputtur Panchayat Union,
Srivilliputtur,
Virudhunagar District.



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4. The Block Development Officer cum
The Commissioner,
Srivilliputtur Panchayat Union,
Srivilliputtur Panchayat Union,
Srivilliputtur,
Virudhunagar District.
5. The Assistant Engineer,
Rural Development Department,
Srivilliputtur,
Virudhunagar District.
6. The Additional Executive Engineer,
Rural Development Department,
Srivilliputtur,
Virudhunagar District.
7. The Chairman,
Srivilliputtur Panchayat Union,
Srivilliputtur,
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records relating to the impugned order in Na.Ka.Vu.E.2/526/2017 dated 18.05.2017 passed by the 2nd respondent and quash the same and consequently, direct the respondents to sanction bills in 9 additional works and 6 bore-well works done by the petitioner based on resolution passed by the Administrative Council in Srivilliputtur Panchayat Union.



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For Petitioner : Mr.B.Anandan
For R1 to R6 : Mr.P.T.Thiraviam,
Government Advocate
For R7 : No appearance

ORDER

The petitioner claims that he has executed certain works under the scheme of “State Disaster Fund, Scheme of Rural Development, Thai Scheme and Panchayat Union General Fund Work” in the 7th respondent Panchayat during the year 2012-2013, 2013-2014 and 2014-2015.

2. The petitioner made a request for payments for the works executed by him in addition to the works allotted to him. In support of his case, the petitioner has also relied on the resolutions of the Panchayat Union Council that he has executed certain additional works in addition to the works allotted to him.



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3. The learned Government Advocate appearing for the respondents 1 to 6, based on the counter affidavit and written instructions, submits that there is no record available in the Panchayat Union to show that the petitioner has executed additional works as claimed by him. The petitioner's father was the Chairman of the Panchayat Union at the relevant point of time. Taking advantage of that, the petitioner has created a resolution by the Panchayat as if he has executed certain additional works. According to the Government Advocate, the petitioner has not executed any additional works and for the works executed by him, amounts have already been paid to the petitioner. He further submits that the writ petition is also not maintainable and the petitioner is having an appeal remedy before the District Collector under Section 11 of the Tamil Nadu Transparency in Tenders Act, 1998.

4. This Court has considered the rival submissions.



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5. The petitioner claims that he has executed certain additional works apart from the works which has been allotted to him for execution of certain work under the Scheme of State Disaster Fund, Scheme of Rural Development, Thai Scheme and Panchayat Union General Fund Work in the Panchayat. The respondent officials claim that the petitioner's father was the Chairman of the Panchayat Union. Taking advantage of the same, the petitioner has created a resolution in his favour as if he has executed additional works. In the affidavit itself, the petitioner claims that on the assurance given by the officials, he has executed nine additional works and six bore-well works. Moreover, the petitioner, being the son of the Chairman of the Panchayat Union, ought not to have participated in the tender process in the Panchayat Union. The petitioner claims that he has participated and has also obtained works from the respondents Panchayat.

6. This Court is not inclined to decide the disputed question of facts in the writ petition. Since the petitioner is having an efficacious



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appeal remedy, this writ petition is disposed of with a liberty to the petitioner to file an appeal in terms of Section 11 of the Tamil Nadu Transparency in Tenders Act, 1978, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

11.12.2023

ogy
NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

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B.PUGALENDHI, J.

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