



W.P(MD)Nos.18158 and 18248 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 25.09.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.18158 and 18248 of 2016

and

W.M.P.(MD)Nos.13090, 13154 and 13155 of 2016

W.P.(MD)No.18158 of 2016:-

Dr.Ambedkar Mandram - Thiruchuli,
Rep. by its President,
M.Murugan, East Street,
Govt. Hospital Road, Thiruchuli,
Virudhunagar District.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai - 600 009.
- 2.District Collector,
Virudhunagar District,
Virudhunagar.
- 3.Superintendent of Police,
Virudhunagar District,
Virudhunagar.
- 4.Revenue Divisional Officer,,
Aruppukkottai,
Virudhunagar District.



W.P.(MD)Nos.18158 and 18248 of 2016

5.Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.

6.Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in connection with the order passed by him in his Proc. Letter No.8647/PR.II/2016-4 dated 12.09.2016 and quash the same and consequently direct the respondents to grant permission for installation of Dr.Ambedkar's Bronze Statue in 'Dr.Ambedkar Ground, Thiruchuzhi, Virudhunagar District'.

For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General,
Assisted by Mr.S.Shanmugavel,
Addl. Govt. Pleader for R1, R2, R4 & R5.
Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R3 & R6.

W.P.(MD)No.18248 of 2016:-

Dr.Ambedkar Mandram - Thiruchuli,
Rep. by its President,
M.Murugan, East Street,
Govt. Hospital Road, Thiruchuli,
Virudhunagar District.

... Petitioner



W.P(MD)Nos.18158 and 18248 of 2016

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.Tahsildar,
Thiruchuli Taluk,
Thiruchulim
Virudhunagar District.

3.Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the 1st respondent in connection with the impugned order passed by him in his Proceedings Pa.Mu.Ji.4/16696/2015 dated 19.01.2016 and quash the same and consequently direct the respondents to issue patta for the petitioner's Dr.Ambedkar Mandram situated in Survey No.81/1, Thiruchuli Village.

For Petitioner : Mr.K.Seemaraj

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General,
Assisted by Mr.S.Shanmugavel,
Addl. Govt. Pleader for R1 & R2.
Mr.A.Albert James,
Govt. Advocate (Crl. Side) for R3.



W.P(MD)Nos.18158 and 18248 of 2016

COMMON ORDER

WEB COPY

The petitioner in both the writ petitions is one and the same.

2.Heard the learned counsel for the writ petitioner, the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

3.The petitioner is a registered society under the provisions of the Tamil Nadu Societies Registration Act, 1975. Though the registration had taken place only in the year 2011, the petitioner has been in existence for close to half a century. It is operating from the premises comprised in S.No.81/1, Thiruchuli Village. Inside the premises which has an asbestos roofing a bronze bust of Dr.Ambedkar has been installed. The petitioner applied to the authorities seeking issuance of patta for the land occupied by them and for granting permission to install a life size bronze statue of Dr.Ambedkar. The request for issuance of patta was negatived by the District Collector vide order dated 19.01.2016. Vide order dated 12.09.2016, the Government also said “no” to the request for installing a



W.P(MD)Nos.18158 and 18248 of 2016

new statue. Assailing these rejection orders, the above writ petitions have been filed.

4.The learned counsel for the petitioner reiterated all the contentions set out in the affidavits filed in support of the respective writ petitions. He pointed out that S.No.81/1, Thiruchuli Village has been classified as natham. The persons who had put up houses in the said survey number have already been issued with patta. My attention was drawn to the communication dated 25.09.1999 sent by the District Revenue Officer, Virudhunagar District to the Commissioner of Land Administration, Chepauk, Chennai and the proceedings dated 28.02.2000 issued by the Tahsildar, Thiruchuli. It is further submitted that the order passed by the Hon'ble Apex Court in Union of India vs. State of Gurajat in S.L.P.(Civil)No.8519 of 2006, dated 02.05.2006 will not come in the way. The learned counsel for the petitioner would argue that the restraint order passed by the Hon'ble Apex Court will apply only in those cases where permission is sought for installation of a new statue. In the case on hand, a statue is already in existence for a very long number of years. He also would point out that in the very same village, abutting the main



W.P(MD)Nos.18158 and 18248 of 2016

road, a life size statue of late leader Shri.Muthuramalinga Thevar was allowed to be put and that therefore, denial in the case of Dr.Ambedkar is unfair. He also would point out that grama sabha as well as local body had passed resolutions favouring installation of a new statue. His yet another contention is that there is consensus among various political parties and that therefore, the apprehension of the respondents that there would be law and order issue is not sustainable. He went to the extent of stating that if the present site is requested for road expansion, the petitioner would gladly relocate the statue provided an alternative site is given. He relied on some of the earlier orders passed by this Court. He pointed out that after such orders were passed, statues were installed adjacent to or even in the middle of the main road. He called upon this Court to grant relief as prayed for.

5.The respondents have filed counter affidavits and the leaned Additional Advocate General took me through their contents. His objections are three fold. (a) the site in question has been classified as highways proamboke and that therefore, such a land cannot be assigned. (b) the Government is seriously proposing to expand the existing



W.P.(MD)Nos.18158 and 18248 of 2016

highways. (c) The Hon'ble Apex Court had passed restraint order. He called upon this Court to dismiss the writ petitions.

6.I carefully considered the rival contentions and went through the materials on record. The petitioner had drawn my attention to the order dated 03.02.2020 made in W.P.(MD)No.26748 of 2019. The said writ petition was filed for a direction to the authorities to grant permission for installation of statue of Thiru.M.Karunanidhi, former Chief Minister of Tamil Nadu in any of the places set out in the writ petitioner's representation therein. It was disposed on 03.02.2020 in the following terms:-

“5. In view of the submissions made by the learned counsel appearing for the petitioner, and also that of the learned Additional Advocate General, this Court, without going into the merits of the case, directs the fourth respondent to consider the representations of the petitioner dated 3.9.2018 and 6.12.2019 on merits and pass appropriate orders in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. This Court also directs the first respondent to



W.P(MD)Nos.18158 and 18248 of 2016

WEB COPY

forward the report in this regard to the fourth respondent forthwith, enabling the fourth respondent to take any decision and pass orders”.

7.This Court did not pass any positive order but left the issue to the discretion of the Government. Therefore, this order may not advance the case of the petitioner. The petitioner has fairly enclosed the copy of the order dated 28.03.2016 made in W.P.(MD)No.16212 of 2015 and the order dated 11.04.2016 made in W.A.(MD)No.549 of 2016. The petitioner herein had made the very same prayer in the earlier writ petition that is now sought for. The said writ petition was dismissed on 28.03.216 in the following terms:-

“5. On a careful perusal of the entire records and arguments put forward by both sides and taking into consideration the Government Orders and the petitioner's contention that they are occupying the Government poramboke land and as on date, they have not been given patta, but it is under the process, it is also made very clear that there is a small shed, in which already the statue exists to the bust level , which are all not in dispute. The only point at this stage is whether a new



W.P(MD)Nos.18158 and 18248 of 2016

statue can be erected, which is in a public place and if it is a public place, as on date the patta has not been granted to the petitioner; then the parties are governed by as per the G.O.Ms.No.248 dated 23.11.1998 and subsequent to G.O.Ms.No.186 dated 21.09.1998.

6. It is very clear that the Government alone has got ample power to give permission. As rightly pointed out by the learned Additional Advocate General that the application has not been rejected and they have to approach the Government alone. Therefore, it is for the petitioner to approach the Government for getting appropriate order. Therefore, the present writ petition as such is not maintainable and the petitioner has got every liberty to approach the Government for getting necessary orders.”

8. Aggrieved by the same, the petitioner filed W.A.(MD)No.549 of 2016. The writ appeal was disposed of in the following terms:-

“5. In such view of the matter, the relief sought for by the appellant/petitioner cannot be granted against the respondents. If at all the appellant has any right, under the above said Government Orders, he can enforce it only



W.P(MD)Nos.18158 and 18248 of 2016

against the Secretary to the Government, Rural Development and Panchayat Raj Department, and he has chosen to do so. When mandamus cannot be issued against the District Collector and the Superintendent of Police, who have no authority to grant permission, consequently, the grounds of challenge made in this appeal are not tenable in law.

6.In the light of the decisions cited supra and discussions made, the appeal is dismissed. No order as to costs. However, the Secretary to the Government Rural Development and Panchayat Raj Department, Government of Tamil Nadu, Chennai-9, is directed to dispose of the petition, dated 05.04.2016, submitted by the appellant within a period of two months from the date of receipt of a copy of this order. The appellant is at liberty to place all materials in support of his claim. The Secretary to the Government is directed to dispose of the petition, on merits and in accordance with the Government Orders, without reference to the observation made by the writ court.”

Pursuant to the said direction, the impugned communication dated 12.09.2016 came to be issued.



W.P(MD)Nos.18158 and 18248 of 2016

9.The prime reason set out in the letter is that granting permission would run counter to the interim order passed by the Hon'ble Apex Court in S.L.P.(Civil) No.8519 of 2006 dated 18.01.2013. Copy of the said interim order has been enclosed by the petitioner in the typed set of papers. It reads as follows:-

“4.Until further orders, we direct that the status-quo, as obtaining today, shall be maintained in all respects by all concerned with regard to the Triangle Island where statue of late Shri.N.Sundaran Nadar has been permitted to be sanctioned. We further direct that henceforth, State Government shall not grant any permission for installation of any statue or construction of any structure in public roads, pavements, sideways and other public utility places. Obviously, this order shall not apply to installation of high mast lights, streets lights or construction relating to electrification, traffic, toll or for development and beautification of the streets, highways, roads etc. and relating to public utility and facilities.”

10.The learned counsel for the petitioner would argue that the restraint set out in the above paragraph will not come in the way of the petitioner's request because this is a case where the statue was already in



W.P(MD)Nos.18158 and 18248 of 2016

existence. I am not persuaded by the said submission. When the Hon'ble Apex Court had specifically directed that the State Government shall not grant any permission for installation of any statue in any public road, pavements and sideways, it would not make a difference if permission is given for installing a new statue in the place of an earlier one. I can understand if the earlier statue had been put up after getting permission from the authorities. It is beyond dispute that the existing bust was installed without obtaining proper permission from the authorities.

11.The learned counsel for the petitioner also may not be right in his contention that S.No.81/1 had been completely reclassified as natham. I went through the proceedings and communications relied on by the learned counsel for the petitioner. It is seen that a number of poor persons belonging to scheduled caste community were in occupation of S.No.81/1 and the Government chose to regularize their occupation by directing reclassification of the occupied land as natham. The benefit set out in the proceedings dated 28.02.2000 issued by the Tahsildar, Thiruchuli can be extended only in favour of those for whom patta was ordered to be issued. Admittedly, in favour of the petitioner herein, patta



W.P(MD)Nos.18158 and 18248 of 2016

has not been issued. Therefore, the claim that the entire survey number has been reclassified as natham may not hold good.

12.These are matters in which the petitioner cannot demand anything as a matter of right. Admittedly, the land in question has been classified as highways poramboke. Merely because, one is in occupation of the same, one cannot seek as a matter of right that patta should be issued. These are matters that are left to the entire discretion of the authorities. The learned Additional Advocate General states that the existing Thiruchuli – Parthibanur State highways is to be expanded and if a life size statue is allowed to put up, tomorrow it may cause complication. The apprehension expressed by the learned Additional Advocate General cannot be brushed aside. Since existence of legal right has not been shown, I have to necessarily sustain the impugned orders and the writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

25.09.2023

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



W.P(MD)Nos.18158 and 18248 of 2016

To:-

WEB COPY

1. Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai - 600 009.
2. District Collector,
Virudhunagar District,
Virudhunagar.
3. Superintendent of Police,
Virudhunagar District,
Virudhunagar.
4. Revenue Divisional Officer,,
Aruppukkottai,
Virudhunagar District.
5. Tahsildar,
Thiruchuli Taluk,
Virudhunagar District.
6. Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District.



WEB COPY



W.P(MD)Nos.18158 and 18248 of 2016



WEB COPY



W.P(MD)Nos.18158 and 18248 of 2016

G.R.SWAMINATHAN, J.

ias

W.P(MD)Nos.18158 and 18248 of 2016

25.09.2023