



W.P(MD)No.25017 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 20.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.25017 of 2023

and

W.M.P.(MD)No.21216 of 2023

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... Petitioner

Vs.

- 1.The Director of Legal Metrology,
Union of India, Ministry of Consumer Affairs,
Food and Public Distribution,
Department of Consumer Affairs,
Legal Metrology Division,
Room No.461-A, Krishi Bhavan,
New Delhi.
- 2.The Secretary, State of Tamil Nadu,
Labour and Employment Department,
Weight and Measures Division,
Fort St. George, Secretariat,
Chennai - 600 009.
- 3.The Principal Secretary, State of Tamil Nadu,
Department of Transport, Fort St. George,
Secretariat, Chennai - 600 009.
- 4.The Commissioner,
Department of Transport,
Ezhilagam, Chepauk,
Chennai - 600 005.



W.P(MD)No.25017 of 2023

5. The Controller of Legal Metrology,
Weight and Measures Division,
Office of the Labour Commissioner,
Government of Tamil Nadu,
DMS Compound, Teynampet,
Chennai - 600 006.
6. The Deputy Commissioner of Labour (Conciliation),
The Deputy Controller of Legal Metrology,
Government of Tamil Nadu,
Department of Labour (Weight and Measures),
74-A, Water Tank Road,
Nagercoil, Kanyakumari District.
7. The Assistant Commissioner of Labour,
(Enforcement), the Inspecting Authority,
Legal Metrology Officer,
Government of Tamil Nadu,
Department of Labour (Weight and Measures),
15, Parvathavarthini Street,
Ramavarmapuram, Nagercoil,
Kanyakumari District.
8. The Deputy Inspector of Labour,
Administrative Authority,
Legal Metrology Officer,
Government of Tamil Nadu,
Department of Labour (Weight and Measures),
Police Quarters Road, Mettukadai,
Thuckalay, Kanyakumari District.
9. Thomas,
Proprietor of NBT Computer Weight Bridge,
(Commercial Weight Bridge),
(Avery 60 Ton Weight Bridge),
No.9882 +78F, Ponmanai Road,
Nedumangad Highway,



W.P(MD)No.25017 of 2023

Kulasekharam Town & Post,
Thiuvattar Taluk,
Kanyakumari District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the Respondents 1 to 8 herein to take necessary action against the 9th Respondent for his operation of the Commercial Computer Weight Bridge namely NBT weight Bridge (Avery 60 Ton Weight Bridge) situate at No.9882 +78F, Ponmanai Road, Nedumangad Highway, Kulasekharam Town and Post, Thiruvattar Taluk, Kanyakumari District being established in a residential zone and ordering for immediate stoppage of operating the heavy weight bridge and shift the same to Industrial Zone area by considering the Petitioner's representation dated 08.09.2023 within a stipulated time as that may be stipulated by this Court.

For Petitioner : Mr.A.Saravanan

For Respondents : Mr.M.Sidharthan,
Addl. Government Pleader for R2 to R8.
Mr.M.Karthikeya Venkatachalapathy for R1.
Mr.B.Prahalad Rvai for R9.

ORDER

Heard both sides



W.P(MD)No.25017 of 2023

2.The writ petitioner's residential house is situated in R.S.No.127/5 in Ponmanai Village, Thiurvattar, Kalkulam Taluk. His grievance is that on account of the running of weigh bridge by the ninth respondent in S.No.127/13, the structural stability of his residential building is being affected. My attention is drawn by the learned counsel for the petitioner to Section 138 (2) of the Motor Vehicles Act, 1988 and also to the orders passed by the Hon'ble Gauhati High Court in W.P.(C)No.206 of 2011 and the Hon'ble Division Bench of Rajasthan High Court in DBSAW No.448 of 2002. He called upon this Court to grant relief as prayed for.

3.The learned counsel for the ninth respondent submitted that the weigh bridge was set up way back in the year 2013 and that it is being run without inviting objections from others. According to the ninth respondent, since the petitioner lost in a civil litigation, the present complaint has been given. He submitted that there is no infraction of any statutory rule and hence, the writ petition deserves to be dismissed.

4.I carefully considered the rival contentions and went through the materials on record. Quite a few legal issues have been raised by the writ



W.P(MD)No.25017 of 2023

petitioner. The learned counsel for the petitioner would contend that the area has been classified as residential zone and that in a residential zone, a weigh bridge cannot be allowed to operate.

5.I cannot disregard the apprehension expressed by the writ petitioner that the structural stability of his building is being affected.

6.If it is a case of nuisance, then the petitioner will have to go only before the jurisdictional Civil Court for abatement of the same. However, since the issue of structural stability is being raised, the authorities will have to look into the same. The seventh respondent herein had granted license to the petitioner. The seventh respondent will invite report from the Public Works Department. The Public Works Department is directed to conduct an inspection after putting the writ petitioner as well as the ninth respondent on notice. The Public Works Department will give a report and the question posed for reference is whether the running of weigh bridge by the ninth respondent in the petition mentioned site has any adverse bearing on the structural stability of the writ petitioner's residential premises. If this report is in favour of



W.P(MD)No.25017 of 2023

the petitioner, then the seventh respondent will have to issue a direction to the ninth respondent for shifting of the weigh bridge to some other place. Incidentally, the seventh respondent shall also go into the issue as to whether a weigh bridge can be allowed to run in a locality classified as residential zone. The seventh respondent after enquiring the parties and based on the report of Public Works Department shall pass final order on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. I make it clear that I have not gone into the merits of the matter.

7.This writ petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

20.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The Secretary, State of Tamil Nadu,
Labour and Employment Department,
Weight and Measures Division,
Fort St. George, Secretariat,
Chennai - 600 009.

6/8



W.P(MD)No.25017 of 2023

2. The Principal Secretary, State of Tamil Nadu,
Department of Transport, Fort St. George,
Secretariat, Chennai - 600 009.
3. The Commissioner, Department of Transport,
Ezhilagam, Chepauk, Chennai - 600 005.
4. The Controller of Legal Metrology,
Weight and Measures Division,
Office of the Labour Commissioner,
Government of Tamil Nadu,
DMS Compound, Teynampet,
Chennai - 600 006.
5. The Deputy Commissioner of Labour (Conciliation),
The Deputy Controller of Legal Metrology,
Government of Tamil Nadu,
Department of Labour (Weight and Measures),
74-A, Water Tank Road,
Nagercoil, Kanyakumari District.
6. The Assistant Commissioner of Labour,
(Enforcement), the Inspecting Authority,
Legal Metrology Officer, Government of Tamil Nadu,
Department of Labour (Weight and Measures),
15, Parvathavarthini Street, Ramavarmapuram, Nagercoil,
Kanyakumari District.
7. The Deputy Inspector of Labour,
Administrative Authority,
Legal Metrology Officer,
Government of Tamil Nadu,
Department of Labour (Weight and Measures),
Police Quarters Road, Mettukadai,
Thuckalay, Kanyakumari District.



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W.P(MD)No.25017 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.25017 of 2023

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