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W.P.Nos.952 of 2024 and 33903 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2024

CORAM :

THE HON'BLE MR.SANJAY V.GANGAPURWALA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.Nos.952 of 2024 and 33903 of 2023

Puducherry Velrampet Engineers Colony
Residents Welfare Association,
rep. by its Secretary, Palani,
No.42, Engineers Colony,
1st Main Road,
Pondicherry-605 004.

.. Petitioner in
both WPs

Vs

- 1.The Chief Engineer,
Public Works Department,
Puducherry.
- 2.The Executive Engineer,
Public Works Department,
Public Health Division,
Puducherry.
- 3.The Member Secretary,
Pondicherry Planning Authority,
Jawahar Nagar,
Pondicherry.



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4.The Commissioner,
Pondicherry Municipality,
Beach Road,
Pondicherry-1.

5.The Member Secretary,
Pondicherry Pollution Control Committee,
Anna Nagar (Housing Board),
Pondicherry.

.. Respondents in
W.P.No.952/2024

1.The Chief Engineer,
Public Works Department,
Puducherry.

2.The Executive Engineer,
Public Works Department,
Public Health Division,
Puducherry.

3.The Commissioner,
Pondicherry Municipality,
Beach Road,
Pondicherry-1.

4.The Member Secretary,
Pondicherry Planning Authority,
Jawahar Nagar,
Pondicherry.

5.The Commissioner,
Pondicherry Municipality,
Beach Road,
Pondicherry-1.

.. Respondents in
W.P.No.33903/2023

[Respondent No.3 impleaded vide order
dated 5.12.2023]

[Respondent Nos.4 and 5 impleaded as per the
order dated 14.12.2023 in WMP.No.34566 of 2023]



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Prayer in W.P.No.952 of 2024: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorari to call for the records pertaining to the impugned e-Tender Notification vide No.35/PHD/2023-24 (Tender I.D.No.2023_PWDC2_14283_1) dated 04.01.2024 of the second respondent and to quash the same.

Prayer in W.P.No.33903 of 2023: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents not to construct the proposed toilet collection open well at Engineers Colony, Velrampet, Puducherry-605 004 allotted for park area, consequentially cancel the e-tender dated 15.11.2023 vide Tender No.35.

For the Petitioner : Ms.Kanimozhi Mathi
in both WPs

For the Respondents : Mr.S.Raveekumar
in both WPs Govt. Pleader (Puducherry)

COMMON ORDER

(Order of the court was made by the Hon'ble Chief Justice)

We have heard Ms.Kanimozhi Mathi, learned counsel for the petitioner; and Mr.S.Raveekumar, learned Government Pleader (Puducherry) for the respondents.

2. W.P.No.33903 of 2023 is filed seeking directions against the respondents from setting up an open well for collection of the sewage. Subsequently, W.P.No.952 of 2024 is filed challenging the



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tender notice.

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3. Learned counsel for the petitioner strenuously contends that the petitioner is an Association. The Engineers Cooperative Society Limited purchased a large chunk of land in Velrampet and formed a layout. The said layout is approved by the Pondicherry Planning Authority on or about 11.4.2000. The park and open space area are earmarked in the said layout. The respondents are trying to construct a sewage collection well and they have not made a provision to close the well. No particulars with regard to grid drawing, cover slab and collection well location, which are mandatory, are given in the tender document.

4. Learned counsel for the petitioner submits that the location where the collection well is sought to be constructed by the respondents is closely surrounded with residents. A bore well for drinking water is also situated nearby. The erection of a collection well would seriously affect the health of the residents of the nearby vicinity.



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5. Learned counsel for the petitioner further submits that no construction can be allowed in the area earmarked as park and open space. The area earmarked as open space was already utilized for erecting a temple, over head tank, bore well, pump house and electric transformer. The remaining area left out in the park is proposed for construction of sewerage and toilet waste collecting well of more than 3 metre dia and a depth of 10.5 metres by laying of pumping line cutting the main access road having width of 6 metres. A representation is given by the residents and the members of the petitioner association, but to no avail.

6. Learned counsel for the petitioner submits that for construction of the said collection well, the permission of the Pondicherry Public Authority has not been obtained. The proposal is not approved by the Pondicherry Public Authority. In the absence of the approval, the respondents cannot execute the said construction. The same is in violation of the Pondicherry Planning Authority Rules. The distance between the residence area and the proposed toilet waste collection open well is less than 10 metres and the same is in violation of the environmental law and the regulations. The over



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head tank already constructed is just next to the proposed collection well. The over head tank is new one and is laid with pipelines. The pipelines of the drinking water and the pipeline way for the proposed collection well will cross each other and lead to the issue of toilet water mixing with the drinking water.

7. Learned counsel for the petitioner further submits that even the permission of the Pollution Control Board is not obtained.

8. Learned Government Pleader (Puducherry) appearing on behalf of the respondents submits that though initially it was decided to construct the well without slab, now a decision has been taken to cover the well with slab. Even an application was made to the Puducherry Pollution Control Committee. They have informed that the said well is not covered under consent purview. However, the Puducherry Pollution Control Committee has directed precautions to be taken. The respondents would adhere to the said directions issued by the Puducherry Pollution Control Committee.

9. It is submitted by learned Government Pleader (Puducherry)



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that an application is already made to the Puducherry Planning Authority seeking permission to construct the collection well. It is only after permission is granted the work will commence and without permission, the sewage collection well will not be constructed.

10. The Puducherry Pollution Control Committee has directed that the collection well must be constructed with impermeable materials to prevent sewage seepage and groundwater contamination; and that the collection well shall maintain minimal sewage retention time to prevent septicity and odour generation by promptly transferring sewage to the sewage treatment plant by frequent pumping cycles.

11. The respondents certainly would be mandated to abide by the said directions issued by the Puducherry Pollution Control Committee and they shall abide by the same.

12. The construction of a sewage collection well is not for the benefit of an individual, it is in the larger interest of the residents of the locality and is very much essential. There are other constructions



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in the said area, such as temple, over head tank, etc. It is made clear that, in the remaining area, no further construction of any sort shall be undertaken, apart from the sewage collection well. The remaining area should be preserved as a park and/or open space.

With these observations, these writ petitions stand disposed of. There shall be no order as to costs. Consequently, W.M.P.Nos.999 of 2024, 33767 and 33768 of 2023 are closed.

(S.V.G., CJ.)

(D.B.C., J.)

01.02.2024

Index : Yes/No
Neutral Citation : Yes/No
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THE HON'BLE CHIEF JUSTICE
AND
D.BHARATHA CHAKRAVARTHY,J.

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