



WEB COPY

W.P.No.11925 of 2



THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
AND
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.P.No.11925 of 2024
and
W.M.P.No.13024 of 2024

S.Ramesh

...Petitioner

Vs.

1.State of Tamil Nadu,
Rep. by Principal Secretary to the Government,
Housing and Urban Development Department,
Chennai.

2.Chennai Metropolitan Development Authority,
Member Secretary,
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai – 600 008.

3.Vaibav Owners Welfare Association,
Rep. by its Secretary,
Old Door No.20, New Door No.48,
Y Block, 5th Avenue,
Anna Nagar, Chennai – 600 040.

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the impugned notice No.EC/N-1/6581/2023 dated 08.04.2024 of the 2nd respondent and to quash the same.

For Petitioner : Mr.M.Ashwin Kumar

For 1st Respondent : Mr.P.Balathandayutham,
Special Government Pleader

For 2nd Respondent : Mr.R.Sivakumar, Standing Counsel

For 3rd Respondent : Mr.P.Ramanathan

J U D G M E N T

(Judgment of the Court was delivered by ***R.SUBRAMANIAN, J.***)

The grievance of the petitioner is that the guidelines framed by the Government for implementation of the Tamil Nadu Town and Country Planning (Removal of Unauthorized Development) Rules 2022 have not been followed in its letter and spirit.

2. A detailed procedure has been set out vide G.O.Ms.No.7 dated 10.01.2023 setting out the guidelines for removal of unauthorised



development. Clause 2 authorizes certain officers of the Planning Authorities to issue notices under Form I and Form II. Clause 3 provides for inspection and notices for further enforcement proceedings. Clause 4 sets out the officers who will cause the inspection and issue lock and seal orders. While Clause 2 authorizes the planning Assistant/ Supervisor/ Architectural Assistant to issue Form II notice, Clause 4 mandates that notices under Form III, Form IV, Form V and Form VI shall be issued by an officer of higher level than those indicated in Clause 2. Finally the lock and seal notice is required to be issued by the Chief Executive Officer.

3. Mr.Ashwin Kumar, learned counsel appearing for the petitioner would point out that in the case on hand both Form II and Form IV have been issued by one and the same person and he has signed for Member Secretary in both the Forms. This, according to him, is not in conformity with the guidelines and a counter has been filed by the Member Secretary of the Chennai Metropolitan Development Authority, wherein, it is stated that as per the circular dated 12.03.2023, issued in furtherance to the G.O.(Ms.)No.7 dated 10.01.2023 referred to supra, they have designated



certain Approving Authorities and Issuing Authorities and the said circular and the designation made as per the said circular are as follows:-

Form	Nature of the Notice	Approving Authority	Issuing Authority
Form – I Under Rule – 3	Notice for Production of Documents	Deputy Planner	Assistant Planner
Form – II Under Rule 4(1)	Notice of Inspection Issuing Authority is Assistant Planner after obtaining orders from the.	Senior Planner/ Chief Planner	Assistant Planner
Form – III Under Rule 5(a)	Notice for the Removal of unauthorised development (without Planning Permission)	Member Secretary	Assistant Planner
Form – IV Under Rule – 5(b)	Notice for compliance of Planning Permission (development carried out in contravention Planning Permission)	Member Secretary	Assistant Planner
Form – V Under Rule – 6(1)	Notice to Discontinue (ongoing	Member Secretary	Assistant Planner



	unauthorised development)		
Form – VI Under Rule – 6(2)	Notice for demolition issued Subsequent to Form – V	Member Secretary	Assistant Planner
Form – VII Under Rule – 7	Notice for Lock and Seal	Member Secretary	Assistant Planner

4. Therefore, according to the 2nd respondent the Forms are signed by the Issuing Authority after approval by the Approving Authority. Hence, they are in order.

5. We are unable to accept the said explanation. The guidelines did not contemplate the Issuing Authority and the Approving authority. The Government Order mandates that certain notices in certain forms should be issued by certain officers and notice in certain forms should be issued by officers who are higher in rank. A perusal of the tabular column shows that all notices are issued by one and the same person, which is in violation of the guidelines issued by the Government.



6. Even the Forms filed in the case on hand both Forms II and IV are signed by one and the same person for and on behalf of the Member Secretary. That by itself is not in conformity with the Government Order. Hence, Form IV notice dated 08.04.2024 having been issued by an officer who is not authorized to issue the same, is set aside. Form II notice is retained. The Chennai Metropolitan Development Authority will proceed afresh from the stage of Form II notice, issue proper Form IV notice by the officer who is authorized under Clause 4 of the G.O. dated 10.01.2023 and pass orders afresh.

7. Writ petition is ordered as indicated above. No costs. Consequently, the connected miscellaneous petition is closed.

(R.S.M., J.) (C.K., J.)
12.12.2024

dsa

Index : No
Neutral Citation : No
Speaking order



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To

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State of Tamil Nadu,
Housing and Urban Development Department,
Chennai.
2. The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu Natarajan Building,
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