



W.P.No.31319 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.11.2024

CORAM

THE HONOURABLE MR.JUSTICE M.SUNDAR

and

THE HONOURABLE MR.JUSTICE K.RAJASEKAR

W.P.No.31319 of 2024

and

W.M.P.No.33967 of 2024

in

W.P.No.31319 of 2024

S.Chandra
W/o. (late) Shanmugam

... Petitioner

Vs.

1. The District Collector
Kanchipuram District
Kanchipuram
Kanchipuram - 631 501.
2. The Divisional Engineer
Construction and Maintenance
Highways Department
Uthiramerur
Kanchipuram District.
3. The Assistant Divisional Engineer
Construction and Maintenance
Highways Department
Uthiramerur

Page Nos.1/8



W.P.No.31319 of 2024

Kanchipuram District.

4. The Assistant Engineer
Construction and Maintenance
Highways Department
Uthiramerur
Kanchipuram District.

... Respondents

Prayer :

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorari, calling for the records pertaining to the notice dated 24.07.2024 issued by the 3rd respondent under Section 28(2) Sub (ii) of the Tamil Nadu Highways Act, 2001 and quash the same.

For Petitioner : Mr.M.Sarfudeen Ali Ahamed
For Respondents : Mr.V.Ravi
Special Government Pleader

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

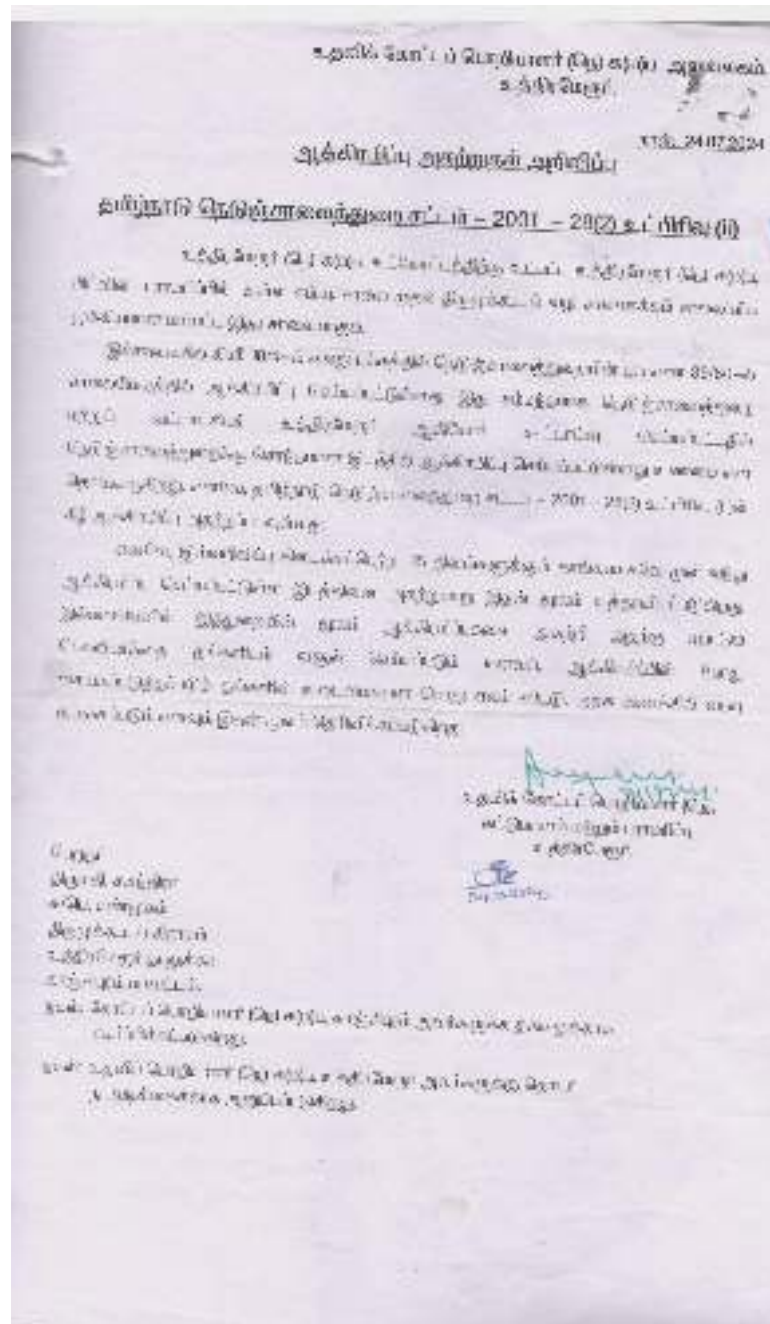
Captioned 'Writ Petition' (hereinafter 'WP' for the sake of brevity) has been filed assailing a 'notice dated 24.07.2024 issued by R3 (The Assistant Divisional Engineer, Construction and Maintenance, Highways Department, Uthiramerur, Kanchipuram District)' (hereinafter 'impugned notice' for the sake of convenience and clarity). A scanned reproduction of the impugned notice is as follows:



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W.P.No.31319 of 2024



2. Learned counsel for writ petitioner submits that impugned notice

Page Nos.3/8



W.P.No.31319 of 2024

has been made under Section 28(2)(ii) of 'Tamil Nadu Highways Act, 2001 (Tamil Nadu Act 34 of 2002)' [hereinafter 'TN Highways Act' for the sake of convenience]. Section 28(2)(ii) provides for issuance of show cause notice before such removal. Section 28(2)(ii) of TN Highways Act reads as follows:

'28.(1)

(2) *The Highways authority or any person authorised by it in this behalf, may--*

(i)

(ii) *remove any immovable structure, whether permanent or temporary in nature, encroaching the highway or in the area vested with Government under this Act, after issuing a show cause notice against such removal, returnable within a period of seven days from the date of receipt thereof:*

Provided that any representation received within the time limit shall be considered by the authority or officer concerned before passing final orders.'

**(underlining is made by this
Court for ease of reference)**

3. Issue notice to respondents.

4. Mr.V.Ravi, learned Special Government Pleader accepts notice for all four respondents.



W.P.No.31319 of 2024

5. Considering the limited scope of the captioned WP, main WP is taken up in the Admission Board with the consent of both sides.

6. Impugned notice is one issued under Section 28(2)(ii) of TN Highways Act, which has been set out in the impugned notice itself. Section 28(2)(ii) of TN Highways Act provides for noticee being show caused giving seven days notice. In the case on hand, learned counsel for writ petitioner submits that the noticee (writ petitioner) responded on 29.07.2024.

7. In the light of the narrative thus far, as it is statutorily imperative that a 'Show Cause Notice' {'SCN'} is issued and the cause shown is considered before making any proceedings, we make the following order:

i) R3 shall now construe impugned notice dated 24.07.2024 as SCN, consider writ petitioner's reply dated 29.07.2024 and pass orders on its own merits and in accordance with law;

ii) Though obvious, we make it clear that we have not expressed any view or opinion on the merits of the matter and



W.P.No.31319 of 2024

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therefore, R3 shall now decide the matter untrammelled by any observations made in this order;

iii) Aforementioned exercise shall be completed by R3 as expeditiously as the business of R3 would permit but in any event within a fortnight from today i.e., by 18.11.2024;

iv) Proceedings of R3 shall be communicated to the writ petitioner under due acknowledgment within three working days from the date of the proceedings.

Captioned WP and captioned WMP are disposed of in the aforementioned manner. There shall be no order as to costs.

(M.S.,J.)

(K.R.S.,J.)

04.11.2024

Index : Yes / No

Neutral Citation : Yes / No

Speaking order / Non-speaking order

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To

Page Nos.6/8



W.P.No.31319 of 2024

WEB COPY

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W.P.No.31319 of 2024

M.SUNDAR, J.,
and
K.RAJASEKAR, J.,

mk

W.P.No.31319 of 2024

04.11.2024

Page Nos.8/8