



W.P.No.32389 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.10.2024

CORAM

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.32389 of 2023

Developer Group India Private Limited,
Represented by its Authorized Signatory
Registered Office
F-6, Lajpat Nagar III,
Basement, New Delhi - 110 024.

Also at
Chennai - Bengaluru Highway (NH-4)
Opp. to Sree Sastha College of Engineering,
Chembarambakkam,
Poonamallee, Chennai - 600 123.

.... Petitioner

Vs

1.Government of Tamil Nadu,
Represented by its Secretary,
The Housing and Urban Development Department,
Secretariat,
Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu -Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.



W.P.No.32389 of 2023

3.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Chennai - 600 056.

4.The President,
Chembarambakkam Village Panchayat,
Chembarambakkam,
Poonamallee,
Chennai - 600 123.

5.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

6.The Assistant Director (Panchayat),
Collectorate Master Complex,
Tiruvallur - 602 001.

7.The District Collector,
Collectorate Master Complex,
Thiruvallur - 602 001.

.... Respondents

Prayer:- Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, directing the 6th Respondent, to quash the order/letter dated 06.10.2023, and more specifically 3rd to 7th respondents to refund the sum of Rs 1,53,54,590 /- (rupees one crore Fifty Three Lakhs Fifty Four thousand Five Hundred and Ninety Only) paid towards approval fee building License Fee Development charges Manual workers general welfare Fund charges and Armed Force Flag Day Fund along with accrued interest as applicable.



W.P.No.32389 of 2023

For Petitioner : Mr.M.S.Murali
for M/s.R & P Partners

For R1, R6 & R7 : Mr.S.Arumugam
Government Advocate

For R3 & R4 : Mr.C.Jayaprakash

For R2 : Mr.Y.Bhuvanesh Kumar
Standing Counsel

For R5 : No appearance

ORDER

This Writ Petition has been filed challenging the order passed by the sixth respondent dated 06.10.2023, thereby rejected the request made by the petitioner seeking refund a sum of Rs 1,53,54,590/- (Rupees One Crore Fifty Three Lakh Fifty Four Thousand Five Hundred and Ninety Only) paid towards approval fee building License Fee Development charges Manual workers general welfare Fund charges and Armed Force Flag Day Fund.

2. Heard the learned counsel appearing on either side and perused the materials available on record.



W.P.No.32389 of 2023

WEB COPY

3. The petitioner had applied for planning permission and other approvals from the respondents 2 to 5 herein for the construction of a multi-storied residential building in Chennai-Bangalore High Road, comprised in survey Nos.123/1B, 2, 3A, 5A, 124/1B, 3 & 4 of Chembarambakkam Village, Poonamallee Taluk, Chennai. On receipt of the said application, the petitioner was issued with a demand notice dated 30.05.2016 to pay the following : (i) manual worker's general welfare fund - Rs.52,12,000/- (ii) approval fees - Rs.30,26,000/- (iii) armed force flag day fund - Rs.3,00,000/- and (iv) plan copy – Rs.10,000/-. Further, the fourth respondent, by its communication dated 24.08.2016, directed the petitioner to pay a building license fee of Rs.43,16,590/- and development charges amounting to Rs.25,00,000/-. After scrutinizing the application submitted by the petitioner and after collecting all the requisite charges amounting to Rs.5,80,84,590/-, the second respondent granted planning permission on 28.04.2016, valid upto 24.04.2019. Subsequently, the permission was renewed and is now valid upto 27.04.2024.



W.P.No.32389 of 2023

WEB COPY

4. However, due to *inter alia*, the sluggish market conditions at that point of time, the petitioner could not able to implement the said approved project and subsequently applied for fresh layout approval with the second respondent. Accordingly, the petitioner submitted an application before the second respondent requested to cancel the planning permission and also to refund the amounts that was paid by the petitioner. On receipt of the said request, the second respondent, after conducting an inspection, by an order dated 23.01.2023, cancelled the planning permission granted in favour of the petitioner and also ordered to refund of charges, such as development charges for land and building, security deposit for building, security deposit for display board and a security deposit for STP, to the petitioner amounting to Rs.2,64,10,000/-. However, the second respondent failed to refund the Infrastructure and Amenities Charges amounting to Rs.1,63,00,000/-. Therefore, the petitioner approached this Court in W.P.No.20035 of 2023 for a direction for the refund. This Court, by an order dated 07.07.2023, directed the second respondent to refund a sum of Rs.1,63,00,000/- paid by the petitioner towards Infrastructure and Amenities Charges. Pursuant to this order, the Infrastructure and Amenities Charges were refunded to



W.P.No.32389 of 2023

the petitioner. However, the respondents 3 to 5 failed to refund the payments, which were made by the petitioner, to the tune of Rs.1,53,54,590/- under the following heads :

<i>S.No</i>	<i>Account Heads</i>	<i>Amount Paid (in Rupees)</i>
1.	Approval fee – paid to 3 rd respondent	30,26,000/-
2.	Building license fee – paid to 4 th respondent	43,16,590/-
3.	Development charges – paid to 4 th respondent	25,00,000/-
4.	Manual worker's general welfare fund – paid to 5 th respondent	52,12,000/-
5.	Armed Force Flag Day Fund	3,00,000/-
	TOTAL	1,53,54,590/-

5. As per the cancellation order, the petitioner surrendered the planning permission and requested to refund of the amount, which was deposited by him. Thereafter, the petitioner submitted a representation and the same was rejected on the ground that the amount which was deposited by the petitioner had already been utilised for Panchayat development.



W.P.No.32389 of 2023

WEB COPY

6. A perusal of the counter filed by the respondents 3 and 4 and the submissions of the learned counsel for the respondents 3 and 4 reveals that after cancellation of the planning permission, the request made by the petitioner seeking refund of the charges paid by him was rejected on the ground that already the amounts, which was paid under the head of Flag Day Fund and construction workers welfare fund, had already been deposited with the Government. Further, the development charges paid for as the income of the Panchayat and the site charges deposited in the account of Panchayat were utilized for work executed by the Panchayat. Therefore, the amount, which was paid by the petitioner, could not be refunded. Further a sum of Rs.30,26,000/- paid by the petitioner towards the approval fee to Poonamallee Panchayat Union has been spent by the third respondent for the development work of the Panchayat prior to the cancellation of the planning permission. The petitioner had paid the entire amount in the year 2016 and seeking a refund after a period of seven years. The expenditure details are as follows :

<i>Sl.No</i>	<i>Year</i>	<i>Name of the Work</i>	<i>Estimate Amount</i>
1	2017-2018	Drilling of Borewell E-Sevai Building at	2,06,000/-



W.P.No.32389 of 2023

Sl.No	Year	Name of the Work	Estimate Amount
		Chembarambakkam Village	
2	2019-2020	Renovation of Ramp, Roof and Power supply at PUP School at Sembarambakkam, Sembarambakkam Panchayat.	40,000/-
3	2019-2020	Fixing & Supplyu of Street Lights at Anna Street and Muthumariyamman Koil Street, Pappanchatram in Sembrambakkam Village	45,000/-
4	2020-2021	Drilling of New Borewell and Extension of Pipe Line at Near Padavattaman Koil in Chembarambakkam Panchayat	2,00,000/-
5	2020-2021	Providing BT Road at Pazhanjur Ellims Nagar in Chembarambakkam Panchayat	5,00,000/-
6	2020-2021	Providing Paver Block Road Periya Andavar Street in Chembarambakkam Panchayat	5,00,000/-
7	2020-2021	Supply and fixing of 7.5 H.P.Motor and fixing of other items Chembarambakkam Panchayat	1,00,000/-
8	2020-2021	Drilling of New Borewell and supply and fixing of syntex tank at Irular Kudiruppu in Chembarambakkam Panchayat	2,00,000/-
9	2020-2021	Extension pipe line at Santro City in Chembarambakkam Panchayat	2,00,000/-
10	2021-2022	Providing Paver Block Road at Keezh Chembarambakkam in Chembarambakkam Panchayat	5,00,000/-
11	2021-2022	Construction of Rain Water Drainage at Durgaiamman Kovil Street	8,60,000/-
12	2021-2022	Providing Drainage and CC Road at Bajanai Kovil Chembarambakkam Panchayat	5,00,000/-
13	2021-2022	Providing Drainage at Madaveethi Cross street and Kuppammal Nagar, Chembarambakkam Panchayat	5,00,000/-
14	2021-2022	Extension pipe line at Santro City in Chembarambakkam Panchayat	1,00,000/-
15	2022-2023	Construction of Rain Water Drainage in Bajanai Kovil Street at Chembarambakkam Panchayat	7,00,000/-



W.P.No.32389 of 2023

Sl.No	Year	Name of the Work	Estimate Amount
16	2022-2023	Construction of Rain Water Drainage in Karpaga Vinayagar Kovil at Chembarambakkam Panchayat	3,00,000/-
17	2022-2023	Construction of Rain Water Drainage at Santro City in Chembarambakkam Panchayat	7,00,000/-
18	2022-2023	Construction of Rain Water Drainage at Karpaga Vinayagar Kovil at Chembarambakkam Panchayat	5,00,000/-
19	2022-2023	Construction of Rain Water Drainage Selva Vinayagar Kovil at Chembarambakkam Panchayat	4,45,000/-
20	2022-2023	Construction of Rain Water Drainage in Karpaga Vinayagar Kovil (II Ward) Chembarambakkam Panchayat	9,99,000/-
		TOTAL	80,95,000/-

7. Thus, it is clear that the amount, which was deposited by the petitioner, has been spent by the third and fourth respondents for various project under the Poonamallee Panchayat and Chembarambakkam Village Panchayat. No amount has been spent for the petitioner's project. Though the petitioner obtained planning permission in the year 2016, the petitioner could not be able to complete the said project during the various reasons. Therefore, the petitioner applied cancellation of planning permission.

8. On receipt of the said request, only on inspection, the



W.P.No.32389 of 2023

WEB COPY

request made by the petitioner was considered and cancelled the planning permission. Admittedly, no construction activity had commenced as per the planning permission granted to the petitioner. Pending writ petition, the petitioner was refunded a sum of Rs.52,12,000/-, which was deposited under the head of manual worker's general welfare fund, by the fifth respondent. Now, the petitioner is relinquished a claim of Rs.3,00,000/-, which was deposited under the head of Armed Force Flag Day Fund. However, the amounts coming under the head of approval fee paid to the third respondent to the tune of Rs.30,26,000/-, the amount of Rs.43,16,590/- paid under the head of building license fee in favour of the fourth respondent and the development charges of Rs.25,00,000/- which was paid by the petitioner, to the fourth respondent, are pending. Therefore, the reasons stated by the third respondent for not refunding the amounts, which was paid by the petitioner, while the pendency of the planning permission cannot be accepted.

9. In view of the above, the impugned order passed by the sixth respondent cannot be sustained and is liable to be quashed.



W.P.No.32389 of 2023

WEB COPY

Accordingly, it is hereby quashed. The third respondent is directed to refund a sum of Rs.30,26,000/-, which was paid by the petitioner for approval fee, within a period of six weeks from the date of receipt of a copy of this order. The fourth respondent is directed to refund the amounts, which were paid by the petitioner under the heads of building license fee and the development charges, totalling of Rs.68,16,590/-, within a period of six weeks from the date of receipt of a copy of this order.

10. With the above directions, this writ petition stands allowed. No costs.

28.10.2024

Internet : Yes
Index : Yes/No
Speaking order/Non-speaking order
Lpp

To

1. The Secretary,
The Housing and Urban Development Department,



W.P.No.32389 of 2023

Secretariat,
Chennai - 600 009.

2.The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu -Natarajan Maaligai,
No.1, Gandhi Irwin Road,
Egmore, Chennai - 600 008.

3.The Commissioner,
Poonamallee Panchayat Union,
Poonamallee,
Chennai - 600 056.

4.The President,
Chembarambakkam Village Panchayat,
Chembarambakkam,
Poonamallee,
Chennai - 600 123.

5.The Secretary,
Tamil Nadu Construction Workers Welfare Board,
No.8, Valluvar Kottam High Road,
Nungambakkam,
Chennai - 600 034.

6.The Assistant Director (Panchayat),
Collectorate Master Complex,
Tiruvallur - 602 001.

7.The District Collector,
Collectorate Master Complex,
Thiruvallur - 602 001.



WEB COPY



W.P.No.32389 of 2023

G.K.ILANTHIRAIYAN, J.

Lpp

W.P.No.32389 of 2023

28.10.2024