



W.P. No. 34723 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34723 of 2023

and

W.M.P. No. 34682 of 2023

Makkal Narpani Sangam (SRG/Namakkal/30/2023),
Represented by its Joint Secretary,
M.Rajasekar,
S/o. Murugasan,
No. 8D, Therku Kattu Kottai,
Tiruchengode,
Namakkal – 637 503.

... Petitioner

-VS-

1. The District Collector,
Namakkal Collector Office,
Namkkal.
2. The Assistant Director of Town Panchayat,
Salem Zone Town Panchayat,
District Collector Campus,
Salem.
3. The Executive Officer,
Special Grade Town Panchayat,
Mallasamuthram,
Namakkal District – 637 503.
4. The Director of Town Panchayat,
Urban Habitat Building,
Near MRC,
Santhome,
Chennai.



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5. M/s. Mallai Aadhma Trust,
D. No. 27/12, Rajaji Street,
Mallasamuthram Post,
Tiruchengode Taluk,
Namakkal District – 637 503.

6. M.Thirumalai

7. P.Yuvaraj

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the First to Fourth Respondents herein from holding the Town Panchayat meeting to select the tenders in Notification NAKA No. 173/2023/A1 dated 25.10.2023 after recusing the Sixth Respondent, viz., President of the Third Respondent and the Seventh Respondent one of the Ward Councillor No. 9 of the Third Respondent.

For Petitioner : Mr. S.Sivashanmugam

For Respondents : Mr. S.J.Mohamed Sathik,
Government Advocate (for R1 to R4)

No appearance (for R5 to R7)

ORDER

Heard Mr. S.Sivashanmugam, Learned Counsel for the Petitioner and Mr. S.J.Mohamed Sathik, Learned Government Advocate appearing for the First to Fourth Respondents and perused the materials placed on record, apart from the pleadings of the parties.



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2. Though notice has been served, the Sixth and Seventh Respondents have not entered appearance either in person or through Counsel till date in this case.

3. The Petitioner was one of the participants of the tender conducted for maintenance of crematorium of the Third Respondent, viz., Mallasamuthram Special Grade Town Panchayat, Namakkal District. It is the case of the Petitioner that the Sixth and Seventh Respondents, who are the President and the Councillor of Ward No. 9 respectively of that Town Panchayat, are the founder and the Trustee respectively of the Fifth Respondent, which is a Trust, that has also participated in the said tender conducted by the Town Panchayat of the Third Respondent. In that backdrop, this Writ Petition has been filed to restrain the Sixth and Seventh Respondents from participating in the decision-making process of selecting the tender in the meeting of the Town Panchayat of the Third Respondent.

4. In order to buttress the said contention, Learned Counsel for the Petitioner has referred to the annexures to the Trust Deed dated 23.03.2023 of the Fifth Respondent, which has been registered as Document No. 4 of 2023 in the office of the Sub-Registrar, Mallasamudram, particularly at page nos. 44



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and 62 of the typed-set filed in support of the Writ Petition, to show the active involvement of the Sixth and Seventh Respondents with the Trust of the Fifth Respondent, which remains uncontroverted.

5. Learned Government Advocate appearing for the First to Fourth Respondents, on instructions, states that the meeting of the Town Panchayat of the Third Respondent, which was proposed to be held on 29.12.2023, did not take place and that the adjourned date would be informed to the concerned parties.

6. Having regard to the aforesaid rival contentions, the only possible inference that could be drawn from the materials placed on record is that the objections raised by the Petitioner for the participation of the Sixth and Seventh Respondents in the meeting of the Town Panchayat of the Third Respondent in the matter relating to awarding of the contract for maintenance of the crematorium belonging to the Town Panchayat of the Third Respondent, have to be upheld. Consequently, the Sixth and Seventh Respondents are restrained from participating in any decision-making process relating to awarding of the said contract by the Third Respondent.



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In the result, the Writ Petition is ordered on the aforesaid terms.

Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

vjt

To

1. The District Collector,
Namakkal Collector Office,
Namakkal.
2. The Assistant Director of Town Panchayat,
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P.D. AUDIKESAVALU, J.

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