



W.P(MD)No.5349 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5349 of 2024

and

W.M.P.(MD)Nos.5123, 5124 and 5126 of 2024

S.Shanthi

... Petitioner

Vs.

1.The District Collector / Inspector of Panchayat,
Karur, Karur District.

2.The Block Development Officer (Village Panchayat),
Thanthoni Panchayat Union, Karur District.

3.The Union Overseer,
Thanthoni Panchayat Union,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.Aa4/0057/2023 dated 26.02.2024 as illegal and quash the same and consequently direct the respondents to restore the earlier work order in Na.Ka.Aa4/57/2023 dated 20.04.2023 within time frame fixed by this Court.



W.P(MD)No.5349 of 2024

WEB COPY

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondents : Mr.R.Baskaran,
Addl. Advocate General,
Assisted by Mr.T.Villavankothai,
Addl. Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General assisted by the learned Additional Government Pleader for the respondents.

2.The writ petitioner is functioning as the President of Andangkivil East Panchayat, Thanthoni Panchayat Union, Manmangalam Taluk, Karur District. The Block Development Officer (Village Panchayat), Thanthoni Panchayat Union issued work order dated 20.04.2023 under MGNREG Scheme. It was issued to the Panchayat Secretary. Contending that the work was not carried out by the panchayat within the stipulated period, the impugned order came to be passed cancelling the work order. Challenging the cancellation order, the present writ petition came to be filed.



W.P(MD)No.5349 of 2024

WEB COPY

3.The learned counsel for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned order and grant relief as prayed for.

4.The respondents have filed counter affidavit and also typed set of papers. The learned Additional Advocate General took me through its contents. He pointed out that even though the work order was issued nearly a year ago, the petitioner had not shown sufficient interest in carrying out the works and that is why, the impugned order came to be passed. He called upon this Court to sustain the impugned order and dismiss the writ petition.

5.I carefully considered the rival contentions and went through the materials on record. It is not in dispute that the work order was issued on 20.04.2023. But the panchayat could not have commenced the work straightaway in the absence of technical sanction. The District Collector gave the technical sanction only on 20.11.2023. Thus, there was delay of seven months on the part of the respondents. The petitioner cannot be blamed for this delay.



W.P(MD)No.5349 of 2024

6.I wanted to know from the learned counsel for the petitioner to explain as to why not much happened thereafter. The learned counsel for the petitioner pointed out that G.O.(Ms) No.34 Rural Development and Panchayat Raj Department dated 04.03.2014 has laid down the norms and parameters for carrying out the works under the aforesaid scheme. Clause 6(vii) of the said Government Order reads as follows:-

“6. Implementation:

(vii) Technical guidance and pre-marking will be done by the Overseers. Measurement and Check Measurement shall be done as per G.O.Ms.No.203, Rural Development and Panchayat Raj (PR.I) Department, dated 20.12.2007.”

7.From this, one can infer that only after technical guidance and pre-marking is done by the Overseer, the works can be taken up. The petitioner in her additional affidavit had stated that only in January 2024, the third respondent gave oral sanction for commencing the construction work. There is nothing on record to show that that the third respondent herein gave written instruction to the petitioner earlier in point of time. In matters such as this, the authorities should ensure that everything is in writing. I have come across cases where even though the work order is issued in the name of the Panchayat



W.P(MD)No.5349 of 2024

Secretary or Union Overseer, there is sub-contracting. Such sub-contracting is done in an informal manner without there being written instructions. This has given rise to disputes in quite a few cases. It is for this reason, the respondents inform the Court that these works are not to be sub-contracted at all and that they are to be carried out only by the panchayat concerned. Since technical guidance and pre-marking has to be done by the Overseer and only thereafter, the works can be taken up, the Overseers are directed to ensure that the instructions are given by them in writing and duly acknowledged by the concerned Panchayat Secretary. In this case, there is no definite material forthcoming on the side of the respondents. I, therefore, take the averment made by the petitioner at its face value.

8.A grievance was made across the bar that the petitioner's husband is needlessly interfering in the civil works. I called upon the petitioner to file an undertaking affidavit to the effect that her husband will completely keep away. To that effect, an undertaking affidavit has been filed today ie., 17.04.2024. The undertaking affidavit is taken on record.

9.The petitioner through her counsel gives a further undertaking that works will be completed within a period of forty days from today.



W.P(MD)No.5349 of 2024

WEB COPY

10.The second respondent had already issued the work order. The technical sanction was also given by the District Collector. Funds have also been sanctioned. If the petitioner is made to do the work, it will within the funds already allotted. If the work is sought to be done through some other agency, certainly there will be cost escalation. This will give rise to further disputes. When the petitioner has agreed to complete all the work within forty days from today, I am of the view that interest of justice will be met by calling upon the petitioner to complete the works.

11.The impugned order has proceeded on the premise that it is the petitioner who is entirely responsible for the delay. The sequence of events mentioned above would clearly show that the petitioner is not at fault. I, therefore, set aside the impugned order. Directing the petitioner to abide by the undertaking given before this Court, this writ petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

17.04.2024

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias

Issue order copy on 22.02.2024.



W.P(MD)No.5349 of 2024

WEB COPY

To:-

- 1.The District Collector / Inspector of Panchayat,
Karur, Karur District.
- 2.The Block Development Officer (Village Panchayat),
Thanthoni Panchayat Union, Karur District.
- 3.The Union Overseer,
Thanthoni Panchayat Union,
Karur District.



WEB COPY



W.P(MD)No.5349 of 2024

G.R.SWAMINATHAN, J.

ias

W.P(MD)No.5349 of 2024

17.04.2024