



W.P(MD)No.5800 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.04.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.5800 of 2024

A.Saminathan

... Petitioner

Vs.

1.The District Collector,
District Collectorate,
Karur District.

2.The Block Development Officer,
Karur Panjayath Union,
Vennamalai, Karur District.

3.The Planning Director,
District Collectorate,
Karur District.

4.The Assistant Engineer,
Karur Panjayath Union,
Vennamalai, Karur District.

5.The Commissioner of Rural Development
and Panchayat Raj,
Raj Panagal Building,
Saidapet, Chennai.
(R5 is *suo motu* impleaded by this
Court vide order dated 03.04.2024)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents herein to dispose of the payment for the construction of SHG building under the



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Mahatma Gandhi National Rural Employment Guarantee Scheme (MGNREGS) without taking any coercive steps as indicated by the 3rd respondent on the basis of the petitioner's representation dated 24.11.2023.

For Petitioner : Mr.V.Balaji

For Respondents : Mr.D.Sasikumar
Additional Government Pleader
for R1, R3, R4 & R5

: Mr.V.Omprakash
Government Advocate for R2

ORDER

Heard the learned counsel on either side.

2. The petitioner is a building contractor. He was called upon by the second respondent in the year 2020 to complete the construction of the self help group building at Veerasolipalaiyam, Athoor Poolampalaiyam, Karur Panchayat Union, Karur District. The petitioner carried out the said work entrusted to him. The case of the petitioner is that he had been so far paid only a sum of Rs.8,00,000/-. According to him, a further sum of Rs.7,92,000/- should be paid. Since his demand was not complied with, the present writ petition came to be filed.

3. The learned counsel appearing 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 grant relief as prayed for.



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4. Shri.Rajendran, Deputy BDO, Karur Panchayat Union is present in person. I called upon the petitioner's counsel to produce the work order issued to him. The petitioner's counsel submitted that no work order was ever issued to him. I called upon the learned Additional Government Pleader for the respondents to inform the Court as to how a sum of Rs.8,00,000/- was paid to the petitioner when no work order was issued to him in the first place. Shri.Rajendran, Deputy BDO clarifies that the work in question was carried out under MGNREGS and that the work order will be issued in favour of the overseer. I am not able to understand as to how works can be awarded to the private contractors orally. In this case, the petitioner would claim that he had done the works for more than Rs.37,00,000. The earlier contractor had done the work at the basement level and left the work incomplete. It was the petitioner who carried out the balance construction. The petitioner's counsel would claim that an excess amount to the tune of Rs.7,92,000/- was paid to the earlier contractor erroneously. The BDO would claim that the petitioner was paid for the work done by him and nothing more is due to him. The valuation of the work done can be determined only if there is work order and corresponding M-Book measurements duly counter-signed. I don't know how to find out the extent of the work done by the petitioner herein. That is why, Article 299 of the Constitution of India mandates that all contracts made in exercise of the



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executive power of the union shall be expressed to be made in the name of the President. There cannot be any oral contract between the State and its official and private individual. This issue has to be resolved only by the first respondent, namely, the District Collector, Karur. The petitioner is directed to submit an elaborate representation setting out all the details and particulars of the work done by him. The petitioner's counsel states that such a representation will be given within a period of two weeks from the date of receipt of a copy of this order. The first respondent will hold an enquiry. He shall cause spot inspection. M book in question will be called for scrutiny. The first respondent will hear the petitioner, the previous contractor as well as the second respondent and pass a speaking order within a period of ten weeks from the receipt of the representation from the petitioner herein. The entitlement of the petitioner to receive further amount will depend upon the order to be passed by the first respondent. The fifth respondent is directed to look into this matter and issue standing instructions to all the District Collectors throughout Tamil Nadu not to entrust scheme works orally. The work order may be issued in the name of the overseer. But the overseer does not carry the work himself. When he in turn gets the work done through private contractors, the arrangement and transaction shall be in writing. In other words, the overseer in whose favour the scheme works are awarded shall issue work orders.



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5. The Writ Petition is disposed of accordingly. No costs.

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Index : Yes / No

Internet : Yes/ No

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G.R.SWAMINATHAN, J.

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