



W.P(MD)No.12021 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.06.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.12021 of 2024

J.E.John Samuel

... Petitioner

Vs.

- 1.The Government of Tamil Nadu,
Rep. by its Principal Secretary,
Local Bodies Department,
Secretariat, Chennai.
- 2.The District Collector,
Kanyakumari District.
- 3.The Assistant Director of Town Panchayat,
Nagercoil, Kanyakumari District.
- 4.Kanyakumari Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.
- 5.Agastheeswaram Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.
- 6.Anjugramam Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.
- 7.Azhagappapuram Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.



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8.Suseendram Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

9.Mylaudy Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

10.Thenthamaraikulam Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

11.Kottaram Town Panchayat,
Rep. by its Executive Officer,
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12.Marungoor Town Panchayat,
Rep. by its Executive Officer,
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13.Thazhakudy Town Panchayat,
Rep. by its Executive Officer,
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14.Azhagiyapandipuram Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

14.Aravaimozhi Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

15.Aralvaimozhi Town Panchayat,
Rep. by its Executive Officer,
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16.Boothapandi Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.



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17. Ganapathipuram Town Panchayat,
Rep. by its Executive Officer,
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18. Puthalam Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

19. Thengamputhoor Town Panchayat,
Rep. by its Executive Officer,
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20. Thingal Nagar Town Panchayat,
Rep. by its Executive Officer,
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21. Mandaikadu Town Panchayat,
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22. Vellimalai Town Panchayat,
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23. Villukuri Town Panchayat,
Rep. by its Executive Officer,
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24. Aloor Town Panchayat,
Rep. by its Executive Officer,
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25. Manavalakurichi Town Panchayat,
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26. Reethapuram Town Panchayat,
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27.Kallukootam Town Panchayat,
Rep. by its Executive Officer,
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28.Neyyoor Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

29.Eranial Town Panchayat,
Rep. by its Executive Officer,
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30.Kumarapuram Town Panchayat,
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31.Kothanalloor Town Panchayat,
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32.Mulagumoodu Town Panchayat,
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33.Thiruvithancode Town Panchayat,
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34.Kappiyarai Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

35.Valvachakostam Town Panchayat,
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36.Vilavoor Town Panchayat,
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37. Attoor Town Panchayat,
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38. Ponmanai Town Panchayat,
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39. Thirparappu Town Panchayat,
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40. Thiruvattar Town Panchayat,
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41. Verkilambi Town Panchayat,
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42. Kulasekharam Town Panchayat,
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47.Kaliyakkavilai Town Panchayat,
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48.Arumanai Town Panchayat,
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49.Puthukadai Town Panchayat,
Rep. by its Executive Officer,
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50.Kollemcode Municipality,
Erstwhile Kollemcode Town Panchayat,
Rep. by its Commissioner,
Kanyakumari District.

51.Ezhudesam Town Panchayat,
Rep. by its Executive Officer,
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52.Palapallam Town Panchayat,
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53.Nalloor Town Panchayat,
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54.Killiyoor Town Panchayat,
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55.Karungal Town Panchayat,
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56.Keezhkulam Town Panchayat,
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57.Unnamalaikadai Town Panchayat,
Rep. by its Executive Officer,
Kanyakumari District.

58.Colachel Municipality,
Rep. by its Commissioner,
Kanyakumari District.

59.Padmanabhapuram Municipality,
Rep. by its Commissioner,
Kanyakumari District.

60.Nagercoil Municipality,
Rep. by its Commissioner,
Kanyakumari District.

... 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 to refund the deposited amount to a sum of Rs. 38,02,887/- (Thirty Eight Lakhs and two Thousand and Eight Hundred and Eight Seven Rupees) with interest at the rate of 18 per annum within a stipulated period that may be fixed by this Court.

For Petitioner : Mr.S.Sivakumar

For Respondents : Mr.P.Thilak Kumar
Government Pleader

ORDER

Heard the learned counsel appearing for the petitioner and the learned Government Pleader appearing for the respondents.



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2. The petitioner had taken part in the tender process floated by the respondent local bodies. He was successful in some of them and not successful in others. He had however deposited EMDs with the local bodies. The grievance of the petitioner is that the respondents have not returned the EMDs.

3. I am conscious of the fact that the writ petition is listed for admission only today. The learned Government Pleader is right in his contention that time must be given. I posed a specific question whether the petitioner has right to refund. The learned Government Pleader clearly states that right to refund of EMD cannot be disputed. I do not want to go into the merits of the matter. The local body is directed to verify the claim of the petitioner. If the petitioner was not successful in the tender process, then obviously EMD ought to have been refunded. If the petitioner has been successful in the tender, his claim will have to be tested. Be that as it may, the local body is directed to verify the petitioner's claim and pass a speaking order. This shall be done by the local body within a period of four weeks from the date of receipt of a copy of this order. If the petitioner is entitled to refund, amount shall be refunded. If the amount is refunded within 8 weeks from the date of receipt of a copy of this order, it will not carry interest. If within 12 weeks EMD is not refunded, it



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will carry interest from the date of cause of action. If according to the learned counsel for the local body, the petitioner is not entitled to refund, then a speaking order will be passed and then he can challenge the same in the manner known to law.

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

10.06.2024

Index : Yes / No
Internet : Yes/ No
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