



W.P(MD)No.14437 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P(MD)No.14437 of 2024

and

W.M.P(MD)Nos.12662 & 12663 of 2024

Arumugam

... Petitioner

Vs

1.The District Collector,
Collectorate, Tenkasi.

2.Tenkasi Municipality,
Represented through its Commissioner,
Municipality Building, Tenkasi.

3.The Chairman,
Tenkasi Municipality,
Tenkasi.

4.P.Sulthan Syed Ibrahim
5.R.Sadeer
6.S.Balasubramaniam

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records of the impugned Resolution No.669 dated 08.03.2024 passed by the second respondent herein as far as the demolition of existing cement water tank in Ward No.30, North Masi Street, Tenkasi Town, Tenkasi and quash the same as illegal and consequently direct the respondents 1 to 3 herein to consider the representation dated 21.06.2024 submitted by the petitioner herein and pass appropriate orders to retain and maintain the existing



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cement water tank at Ward No.30, North Masi Street, Tenkasi Town and pass appropriate order within the time stipulated by this Court.

For Petitioner : Mr.S.Vashik Ali
for Mr.D.Nallathambi

For R – 1 : Mr.S.Shanmugavel
Additional Government Pleader

For R – 2 : Mr.P.Aathimoola Pandian

For R – 4 : Mr.J.Senthil Kumaraiah

For R – 5 : Mr.K.Mohamed Sirajudeen

ORDER

This Writ Petition has been filed by the petitioner challenging resolution No.669, dated 08.03.2024 passed by the second respondent.

2.The petitioner is a resident of North Masi Street, Tenkasi. There is a drinking water overhead Tank which was constructed in the year 2001-2004 with a capacity of 20,000 litres. Now, it is found to be in dilapidated condition and at any time, it will break down. Therefore, in order to construct a new pump house, the second respondent resolved to remove the water tank for the new construction of the pump house building. Now, the resolution is under challenge in this Writ Petition.



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3.The second respondent raised an objection with regard to the maintainability of the very Writ Petition since it challenged the resolution passed by the second respondent. It is a well-settled proposition of law that a resolution by itself is not an order and the same cannot be given effect unless a proper formal order is passed on the basis of such resolution by the competent authority. Thus, a resolution by itself cannot have any force of law. It is only an expression of opinion in the form of recommendations, which will have a binding effect only after the same is accepted and a proper formal order is passed. Therefore, it cannot be subjected to judicial review.

4.The learned counsel appearing for the second respondent also relied upon the Judgment of the Hon'ble Division Bench of this Court reported in **2015 (2) CWC 366** in the case of ***Shantha Srinivasan Vs. The Secretary to Government and others***, wherein it is held as follows:

'4.In this regard, it would be apposite to quote the judgment rendered by one of us (Satish K. Agnihotri, J.) in Chhattisgarh High Court in Payal Travels vs. State of Chhattisgarh and Others, following a catena of decisions of the Supreme Court. The relevant portion of the said judgment reads thus:



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"14. It is a trite law that a resolution is not an order and the same cannot be given effect to unless a proper formal order is passed on the basis of resolution by the competent authority. It has been held in a catena of decisions of the Supreme Court that resolution is a mere guideline or recommendation and the same is not effective ipso facto."

The above judgment is squarely applicable to the case on hand since the petitioner is challenging the resolution passed by the second respondent, dated 08.03.2024.

5.In view of the above, this Writ Petition itself is devoid of merits and the same is liable to be dismissed. Accordingly, this Writ Petition is dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

05.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps



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To

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Municipality Building,
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- 3.The Chairman,
Tenkasi Municipality,
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G.K.ILANTHIRAIYAN, J.

ps

Order made in
W.P(MD)No.14437 of 2024

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