



W.P.(MD) No.21218 of 2018

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.(MD) No.21218 of 2018

D.Veerapandi

... Petitioner

/vs./

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Project Director / Joint Director,
District Rural Development and Panchayat Raj Agency,
Sivagangai District,
Sivagangai.
- 3.The Executive Engineer,
District Rural Development and Panchayat Raj Agency,
Sivagangai District,
Sivagangai.
- 4.The Assistant Executive Engineer,
Sub Division Ilayangudi,
Panchayat Union Office,
Ilayangudi,
Sivagangai District



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5.The Assistant Engineer,
Sub Division Ilayangudi,
Panchayat Union Office,
Ilayangudi,
Sivagangai District.

6.The Block Development Officer (Village Panchayat),
Panchayat Union Office,
Ilayangudi,
Sivagangai.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, to direct the 6th respondent to release the amount for supply of material, supply of skill and unskilled labour for construction of the Village Panchayat Service Centre at Munaiventri Panchayat Board, Nagamugunthankudi Panchayat Board, S.Karaikudi Panchayat Board situated at Ilayankudi Panchayat Union by considering the petitioner's representation dated 21.08.2018.

For Petitioner : Mr.B.Mahendrarajan

For Respondents : Mr.G.Suriyanath
Additional Government Pleader

ORDER

The petitioner has filed this writ petition for a Mandamus to Mandamus to direct the sixth respondent to release the amount for supply of material and supply of skill and unskilled labour for construction of the Village Panchayat Service



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Centre at Munaiventri Panchayat Board, Nagamugunthankudi Panchayat Board, S.Karaikudi Panchayat Board situated at Ilayankudi Panchayat Union by considering the petitioner's representation dated 21.08.2018.

2.It appears that the petitioner was engaged by the sixth respondent for certain construction activities to construct a Village Panchayat Service Centers at an estimated cost of 13.12 lakhs for Munaiventri and 17 lakhs for S.Karaikudi. It is the case of the petitioner that the petitioner was only a vendor to collect the materials as required for the construction work and the name would be enlisted as the list of vendors in Government online portals and a separate cheque would be issued to him.

3.It is the case of the petitioner that believing the words of the Assistant Engineer and the Block Development Officer, the petitioner collected materials and it was later informed that there was no one to built those kind of buildings and therefore compelled the petitioner to construct the whole building and assured to give payment for the supply and for the skilled labour wages. It is the case of the petitioner that the petitioner engaged his own labours and spent money



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to rise the buildings with the help of departmental supplies. Para 5 to 7 of the affidavit reads as under:-

“5. I submit that I believing the words of Assistant Engineer and the Block officer, I collected required materials, But they apprised me that there was no one to built those kind of buildings. So they compelled me to construct the whole building and assured to give all components of funds including skilled and unskilled labour wages. They added that materials like cement and steel from departmental supply will be given in account to construct the building. So I engaged my labourers and my money to rise the buildings with the help of departmental supplies. I was given some cement bags along with steel that recommended by Assistant Engineer and Assistant Executive Engineer. So I was given the receipt that allowed me to take such departmental supplies got from Assistant of MGNREGA. I signed in the office cement and steel issuing registers which was Maintained by night watchman of panchayat union office, Ilayangudi He loaded such kind of materials regularly from the office godown on my vehicles.

(6) I submit that after commencement of those works I was given an additional work for construction of a building at Nagamugundankudi which was already given to somebody else. Moreover he already took some departmental supplies and constructed the building up to basement with the help of Panchayat President. He got the amount for his construction work. Thereafter I took some departmental supplies and I constructed all those buildings at roof laid level in Nagamugundankudi and Munaiventri, basement level in S.Karaikud?.

(7) I submit that after finishing those works I approached Assistant Engineer and Block Development Officer to release the amount. They assured that the Assistant Engineer made some measurements on M Book and finally I was given a release order. I signed in the relevant register and got the release order gave it to



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work order holders including whole cheque. I was not well versed in official matters. So I am not aware to get the money in correct time But several days I was not get any amount of money for work order. They said that there was no fund is available at Block Development Officer and I was directed to keep the M. Books.”

4.The respondents have filed a common counter. In para 10 to 13, it has been stated as under:-

“10. It is submitted that the averments of the petitioner made in paras 1 to 4 are denied as false and vexatious. The averments of the petitioner stating that he is well known to the 5 Respondent and he was employed as Assistant Engineer at Munaiventri and S.Karaikudi Panchayat at a cost of Rs.13.2 lakhs and Rs.17 lakhs without giving any relevant papers are denied a utter false and misleading. The petitioner was engaged as a vendor and he executed said construction of VPSC's in the said village panchayat union godowns and he was paid for the each and every item of work done by him by the panchayat secretaries concerned since the work was done by the Department and administrative sanction was made in the name of BDO (V.P) . The work order was issued in the name of panchayat secretaries concerned and not in the name of the petitioner herein.

11. It is submitted that the petitioner was entrusted with certain works as a vendor and he was paid for the works done through him. But the petitioner herein suddenly left the work in half way and the authorities have to find out another vendor and completed the work by engaging them and making payment for the works done by them. It is submitted that due to reckless and adamant attitude of the writ petitioner, the construction work was stopped at middle way which caused hardship to the administration. The averments of the petitioner are false and vexatious and are raised



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with an ulterior motive to get undue benefit by adducing false reasons and hence it deserves no merit.

12. It is submitted that the averments of the petitioner made in paras 5 to 10 are also denied as false, nebulous and devoid of truth. The petitioner's averment stating that no one was there to build those kinds of buildings except him and he was compelled to engage his labourers and to spend his money to raise the buildings are denied as false and imaginary in nature. Receiving the cement and steel from the panchayat union godown as vendor does not confer him any right as a contraction. It is submitted that the petitioner has taken away some of the measurement books and some documents pertaining to the said contraction work and he has also deserted away from the construction work abruptly and suddenly and thereby caused much hardship to the panchayat administration. The authorities have to make alternative arrangement to complete the unfinished work of the petitioner and engaged another vendor to complete the construction work and to put the said public building into usage.

13. It is submitted that the averments of the petitioner stating that he has taken away the measurement books in order to get money reveals the adamant behavior of the petitioner. In spite of the reminders to handover the Government records including the measurement books concerned, the petitioner didn't obliged to return the same. The case pending with inspector of Police, Ilayangudi vide., FIR No. not assigned, but CSR No. 84/2022 dated: 15.02.2022. He himself accepted that he stopped the construction work abruptly and settled at Madurai. The contentions of the petitioner stating that he sent a representation to the authorities and to the police to release a sum of Rs.15,01,537/- towards the alleged payment for materials and for labourers are denied as false, and mischievous and are raised with and ulterior motive”



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5.I have considered the arguments advanced by the learned counsel for the petitioner and the learned Additional Government Pleader for the respondents.

6.There are several disputed questions of fact, which cannot be determined by this Court under Article 226 of the Constitution of India. If the petitioner is so aggrieved by the decisions of the respondents, the petitioner has to only file a suit before the Court of appropriate jurisdiction. Therefore, the Writ Petition stands dismissed. The time spent by the petitioner before this Court in this writ petition will stand excluded for the purpose of instituting a civil suit to recover the amount allegedly due to the petitioner from the respondents. No costs.

Index : Yes / No

03.04.2024

Internet : Yes / No

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To

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Project Director / Joint Director,
District Rural Development and Panchayat Raj Agency,

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Sivagangai District,
Sivagangai.

3.The Executive Engineer,
District Rural Development and Panchayat Raj Agency,
Sivagangai District,
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4.The Assistant Executive Engineer,
Sub Division Ilayangudi,
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C.SARAVANAN, J.

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