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W.P.(MD)NO.10092 OF 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

AND

THE HON'BLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.10092 of 2016 and
W.M.P.(MD)Nos.7908 & 7909 of 2016

S.Arumai Dass

... Petitioner

Vs.

1. The District Collector,
Tirunelveli District, Tirunelveli.
2. The District Revenue Officer /
The Sub Collector,
Cheranmahadevi, Tirunelveli District.
3. The Tahsildar,
Taluk Office, Radhapuram, Tirunelveli District.
4. The Block Development Officer,
Vallioor Panchayat Union,
Vallioor, Tirunelveli District.
5. The Secretary to Government,
Government of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Chennai.
6. The Secretary to Government,
Government of Tamil Nadu,
Municipal Administration and Water Supply Department,
Chennai.

(Respondents 5 and 6 are *suo motu* impleaded vide order dated 03.09.2024)

... Respondents



Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the respondents 1 to 4 to consider the petitioner's representation dated 09.03.2016 and subsequently direct them to remove the encroachments found in stream(which run from north to south in east side of Jacob puram Village) in survey No.99/1A1A in Pazhavor Revenue Village-II, Radhapuram Taluk, Tirunelveli.

For Petitioner : Mr.V.Rajiv Rufus
For R-1 to R-3 : Mr.R.Ragavendran,
Government Advocate.
For R-4 : No appearance.

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ORDER

This writ petition was filed in June 2016 for directing removal of the encroachments found in the petition-mentioned water-body in survey No.99/1A1A in Pazhavor Revenue Village, Radhapuram Taluk, Tirunelveli.

2. When the matter was taken up on 08.06.2016, order was passed directing the District Collector, Tirunelveli to file a detailed report as to the action taken on the complaint lodged by the petitioner and the measures if any to be taken for restoring the water-body. The matter came up for final hearing on 08.08.2024. According to the petitioner, a stream runs in survey No.99/1A1A in Pazhavor Revenue Village. It starts from



western ghats in the western side of Aavaraikulam Village. According to the petitioner, there are several encroachments on the said water-body.

What triggered the filing of the writ petition was construction of service center under Mahatma Gandhi National Rural Employment Guarantee scheme(MGNREGS). The official respondents conceded that the construction of the community center in the petition-mentioned odai commenced in the year 2015-16 and that further construction was stopped following the institution of this writ petition. In the counter affidavit filed by the Block Development Officer, it was further admitted that a sum of Rs.14.55 Lakhs was already spent. We also noticed that before the site was chosen, no formal approval was obtained from any competent committee. Construction in any water body cannot be permitted. It has to be necessarily demolished. At the same time, we cannot lose sight of the fact that on account of the reckless conduct of some of the officials concerned, a sum of Rs.14.55 Lakhs of public fund had gone waste. We therefore directed the District Collector, Tirunelveli to fix responsibility in this regard. The matter was adjourned to enable the learned Government Advocate to get instructions. Today when the matter was taken up for hearing, the learned Government Advocate submitted that the District Collector, Tirunelveli went into the issue and



identified as many as four officials on whom the responsibility can be fastened and the money can also be recovered.

3. The information table reads as under:-

Sl. No	Nature of Description of loss	Percentage of loss to be shared by the Panchayat Union Commissioner and Staff	
19	Constructions works on lands not owned by the panchayat Union / panchayats	Commissioner	70 %
		Union Engineer	30 %

இப்பணிதான், சென்ற ஆண்டுகளில் பின்வரும் வட்டாரங்களில் அடித்தளங்கள்

பணிபுர்த்துள்ளன:

வார்ட்	அலுவலர் பெயர்	பணியின் தன்மை	வெந்தும் செலவு கோவாடிட மி/ரூம்
1.	ஆ.செல்வராஜன்	முதலில் வேலைக்கு நேரவே வழங்கியவர்	
2.	இராஜன் வள்ளல் சங்கரி	வட்டிடம் கட்டிய வேலை சுத்தவாய்மையுடன் 1 st Bill - 364301 2 nd Bill - 272682 Total - 637443	70%
3.	ந.சுருத்தாணி	2 nd Bill - 272682	
4.	செங்கிதம் (பொதுப்பணி)	வட்டிடம் பணி துவக்கியது முதல் 3 பில்ல்கள் சமர்ப்படுத்தார்	30%

மேற்சொன்ன விகிதாசாரமான வசூல் செய்தி அமைவற்ற விவரத்தினை
நீதிமன்றத்தில் தெரிவித்திருப்பது கேட்டுக் கொள்கிறேன்.

Since those officers are not before us, it may not be appropriate for us to render any adverse finding as regards their individual liability and responsibility. We only direct the District Collector, Tirunelveli to pursue the matter further and ensure that the amount of Rs.14.55 Lakhs of public



funds is recovered from the erring staff.

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4. The issue cannot rest there. We find that in many cases, Government buildings are put up on water-bodies. We direct the respondents 5 and 6 to issue detailed circular instructing officials concerned that in future, while selecting site for putting up any building, it would be ensured that the water-bodies are not chosen for putting up such a construction. Such circular shall be issued within four weeks from the date of receipt of this order copy. We issue such direction so that the situation as in the case on hand does not ever recur. This writ petition stands allowed accordingly. The first respondent is directed to ensure that the offending construction is demolished and the debris removed forthwith. We further direct that the water-body is restored to its original condition. The entire exercise will be completed within a period of twelve weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

(G.R.SWAMINATHAN, J.) & (B.PUGALENDHI, J.)

3rd September 2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To:

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Tirunelveli District,
Tirunelveli.
2. The District Revenue Officer /
The Sub Collector,
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Tirunelveli District.
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