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W.P.(MD) No.19577 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.01.2024

CORAM:

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

W.P.(MD) No.19577 of 2017

P.Shanmugapriyan

... Petitioner

-vs-

1.The District Collector
Theni District, Theni

2.The Planning Officer
District Rural Development Agency (DRDA)
Collectorate Complex
Theni, Theni District

3.The District Forest Officer (DFO)
Theni District, Theni

4.The Block Development Officer
(Village Panchayat)
Bodinayakkanoor
Theni District

5.The President
Agamalai Village Panchayat
Bodinayakkanoor Taluk
Theni District

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus directing the first respondent to conduct proper enquiry whether a road has been constructed from Bodinayyakanoor through Musapparai, Muthukombai, Vikramathithiantholu, Erumaitholu, Valaimaratholu to Agamalai, Theni District and further direct him to take appropriate disciplinary action against the officials if any public funds has been misused in the above issue.

For Petitioner : Mr.U.Antony Santhosh

For Respondents : Mr.S.P.Maharajan
Special Government Pleader for R1 to R3
Mr.V.Muruganandam for R4
R5 - Unserved

ORDER

[Order of the Court was made by D.KRISHNAKUMAR, J.]

Prayer in this writ petition is to direct the first respondent to conduct proper enquiry as to whether a road has been laid from Bodinayyakanoor through Musapparai, Muthukombai, Vikramathithiantholu, Erumaitholu, Valaimaratholu to Agamalai, Theni District and to direct the first



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respondent to take appropriate disciplinary action as against the officials if any public funds has been misused in the above issue.

2. The respondents 1 and 3 have filed a counter affidavit, wherein in Paragraph No.9, they have stated as follows:

“9.I humbly submit that the forest department has never given any permission to third respondent so far with regard to form a road etc., within the forest lands. I humbly submit that this respondent did not mislead the general public residing in the said villages regarding the construction of road at any occasion so far. I submit that I have taken uniform stand from the beginning to till now that the public roads will not be formed within the area of forest lands. I submit that this forest department have never misused the public fund as alleged in para 8 of writ petition. I respectfully submit that this petition knows pretty well that construction of road will not be formed in the forest area which is against the well settled canons of Forest Laws.”

3. The fourth respondent has filed a counter affidavit, wherein in Paragraph No.11, he has stated as follows:



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“11.I submit that there is no misuse of public fund as alleged by the writ petitioner and no road facilities was provided as on today as per the available records in the panchayat and no amount was sanctioned by the higher authority under any scheme and there is no question of misusing funds which was not sanctioned in the higher authority and it is a vague and bald allegation by the writ petitioner without having any legal grounds and this writ petition came to be filed as if the public interest is involved and the writ petitioner filed this writ petition without any valid grounds and wrongly interpreted the RTI Act reply which was given by the authority.”

4. In view of the above categorical statement of the respondents 1, 3 and 4 in their respective counter affidavits, we are of the view that the relief sought for the petitioner cannot be granted and the petitioner has not placed any substantial material in support of his contentions.

5. Further, on a careful perusal of the materials available on record, we find no material to show that for filing a public interest litigation, the petitioner has satisfied the parameters laid down by the Honourable



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Supreme Court in the case of ***Guruvayoor Devaswom Managing Committee vs. C.K.Rajan***, reported in ***(2003) 7 SCC 546*** and the subsequent decisions of the Honourable Supreme Court in the case of ***Ashok Kumar Pandey vs. State of West Bengal and others***, reported in ***(2004) 3 SCC 349***, ***Neetu vs. State of Punjab***, reported in ***(2007) 1 SCC 614*** and ***State of M.P. vs. Narmada Bachao Andolan***, reported in ***(2011) 7 SCC 639***. Therefore, we are not inclined to entertain this writ petition.

6. Hence, this writ petition is dismissed. No costs.

[D.K.K., J.]

[R.V., J.]

29.01.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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