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W.P(MD)No.26761 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH Court

Reserved on	:	29.07.2024
Pronounced on	:	06.11.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P(MD)No.26761 of 2023

M.Kanagaraj

... Petitioner

Vs.

1. The Director,
Directorate of Vigilance and Anti Corruption,
293, MKN Road, Collectors Nagar,
Alandur, Chennai.

2. The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Thoothukudi District,
Thoothukudi.

3. The Director of Municipal Administration,
M.R.C.Nagar,
Chennai-28.

... Respondents

*(R3 is suo-motu impleaded vide Court order dated 02.04.2024
in W.P.(MD).No.26761 of 2023)*

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, praying this Court to pass any order or direction or to issue a writ more particularly a writ in the nature of Writ of Mandamus directing the respondents to conduct an enquiry regarding the contract



W.P(MD)No.26761 of 2023

work of laying paver block and constructing storm water drain at Sriram Nagar extension, 31st ward, Kovilpatti municipality, Tuticorin district and to take necessary action under the prevention of corruption Act against the municipality engineers, for causing financial loss to the Government by giving false inspection report regarding the contract work, based on the representation of the petitioner dated 26.06.2023 with in a stipulated time in accordance with law.

For Petitioner :Mr.M.Prabu
For Respondents :Mr.S.Ravi, (for R1 & R2)
Additional Public Prosecutor

Mr.S.Kameswaran (for R3)
Government Advocate

ORDER

The petitioner has filed this writ petition for directing the respondents to conduct an enquiry regarding the contract work of laying paver block and constructing storm water drain at Sriram Nagar extension, 31st ward, Kovilpatti Municipality, Tuticorin District and to take necessary action under the prevention of corruption Act against the Municipality Engineers, for causing financial loss to the Government by giving false inspection report regarding the contract work, based on the representation of the petitioner dated 26.06.2023 with in a stipulated time in accordance with law.



W.P(MD)No.26761 of 2023

WEB COPY

2. The petitioner is native of Thulasinga Nagar, Mathithoppu Village, Kovilpatti Taluk, Tuticorin District. He is running a tractor for hire and doing the work of loading and unloading crushers, M-sand etc., for various contract works.

3. Kovilpatti Municipality had called for tender for work of laying Paver block, constructing storm water drain at Sriram Nagar extension, 31st ward, Kovilpatti Municipality at the cost of Rs.1,46,00,000/-. The said work was allotted to a contractor by name Ramar. He had allegedly done the said work in substandard manner using substandard materials in collusion with all the officials and also not completed the work in a portion of the distance and created bogus bills and appropriated the amount of Rs.1,46,00,000/-. Therefore, he made a complaint to the respondent Nos. 1 and 2 namely Vigilance Department. There was no action and hence he filed this writ petition seeking writ of mandamus for directing the respondents No. 1 and 2 to conduct enquiry and take appropriate action as per the provision of the prevention of corruption Act.



W.P(MD)No.26761 of 2023

WEB COPY

4. At the time of the hearing, the Learned Additional Public prosecutor submitted that the 1st respondent forwarded the said complaint to the Director of Municipal Administration, Chennai. Therefore, this Court *suo moto* impleaded and directed the Director of Municipal Administration, Chennai to file the report. The Director of the Municipal Administration filed the counter affidavit along with the documents. In the counter affidavit it is stated that the allegation made by the petitioner in the writ petition and the complaint is not correct. Entire amount was not disbursed and proper test was conducted and no bogus measurement was found in the M book and the petition was made with *malafide* intention to wreak vengeance against the contractor and hence they seek for dismissal of the writ petition.

5. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on records.

6. This Court directed the Director of Municipal Administration to



W.P(MD)No.26761 of 2023

submit his report, upon considering the allegation made by the petitioner.

The Director of Municipal Administration, simply forwarded the report of the Regional Office and forwarded the same to this Court. He has not even looked into the allegation of the petitioner to find out whether it is true or false on the basis of the report of the regional office. When the allegation was against the Regional Officer, it is not fair on the part of the director of municipal administration to forward the said officer's report to this Court. He has to independently enquired about the allegation made in the complaint. When the Government decided to invest Rs.1.46 crores to lay paver block with storm water drainage as a longtime measure, the authorities allegedly not fulfilled the Government's decision and the same was brought to the knowledge of the Director and the Director is expected to act independently into a allegation. Therefore, this Court is not satisfied with the counter affidavit filed by the director and inclined to issue direction to the 1st respondent to conduct the preliminary enquiry as per the Vigilance Manual. To facilitate the same the 3rd respondent hereby is directed to transmit all the files relating to this issue along with permission to conduct the enquiry to the 1st respondent.



W.P(MD)No.26761 of 2023

6. Accordingly this Writ Petition is disposed of with the following direction:-

6.1. The 3rd respondent is hereby directed to transmit all the documents to the office of the 1st respondent to conduct the preliminary enquiry within four weeks from the date of receipt of the copy of the order.

6.2. Upon receipt of the same, the 1st respondent shall complete the preliminary enquiry within 2 months thereafter.

6.3. If the 1st respondent finds no material to proceed further into the allegation made in the petitioner complaint during the course of the preliminary enquiry, it is open to the 1st respondent to file the closure report upon serving the same to the petitioner.

06.11.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/ No
sbn



W.P(MD)No.26761 of 2023

To

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4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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W.P(MD)No.26761 of 2023

K.K.RAMAKRISHNAN.J.,

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W.P(MD)No.26761 of 2023

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