



WEB COPY



W.P. No. 13850 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.05.2025

Coram:

**THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HON'BLE MR. JUSTICE V.LAKSHMINARAYANAN**

W.P. No. 13850 of 2025

V.Umapathy

.. Petitioner

Vs.

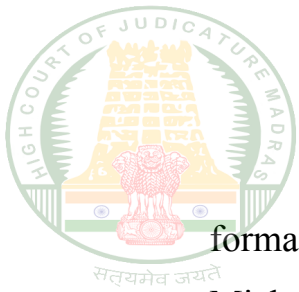
1.The State of Tamil Nadu,
Rep. by its Additional Chief Secretary,
Water Resource Department,
Secretariat, Fort St.George,
Chennai - 600009.

2.The Engineer-in-Chief &
Chief Engineer (General),
Water Resources Department (WRD),
Chepauk, Chennai - 5.

3.The District Collector,
Thiruvallur District,
Thiruvallur.

... Respondents

Prayer:- Writ Petition is filed under Article 226 of the Constitution of India praying to issue a writ of mandamus directing the respondents to take appropriate legal action against the Executive Engineer (WRD) and the concerned officials responsible for collapse of the "Strengthening and



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formation of Flood Bank with River training works damaged due to Cyclone Michaung in Kosasthalaiyar River from L.S.119.10 k.m. to L.S.127.60 k.m. in Ponneri Taluk, Tiruvallur" within a period of 1 year of its construction due to the substandard work carried out with inferior quality materials by Vijay Infra & Co., under collusion with officials of the 2nd respondent and the Executive Engineer (WRD) and for misappropriation of Public Funds by the 2nd respondent, the Executive Engineer (WRD) and the Company by considering the petitioner's representation dated 28.03.2025 within a period to be stipulated.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.J.Ravindran
Additional Advocate General
assisted by Mr.L.S.M.Hasan Fisal
Additional Government Pleader

ORDER

(Order of the Court was made by G.R.Swaminathan, J.)

Heard the learned Senior Counsel for the Writ Petitioner and the learned Additional Advocate General appearing for the Respondents.

2. The petitioner alleges that the construction put up by a private Contractor pursuant to the petition mentioned contract was washed away and as a result, the Government has put to considerable loss. The petitioner also



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contends that there is a design flaw in construction itself and approval from the competent authority was not taken. Hence, this Writ Petition came to be filed.

3. Today when the matter was taken up for hearing, the learned Additional Advocate General filed a counter affidavit sworn to by the second respondent. He also drew our attention to Clause 37 of the Agreement between the contractor and the Government. Clause 37 reads as follows:

"37. RISK INSURANCE

The work executed by the contractor under the contract shall be maintained by the contractor's risk until the work is taken over by the Executive Engineer. The Government shall not be liable to pay for any loss or damages occasioned by or arising out of fire, flood volcanic eruption, earthquake, other convulsions of nature, invasions, the acts of foreign enemies, hostilities or war like operations (before or after declaration of war) rebellion, military or usurped power and all other natural calamities, risks arising out of acts of God during such period and that the option whether to take insurance coverage or not to cover such risks, is left to the contractors."

4. The learned Additional Advocate General pointed out that when the wall was under construction, it got washed away. We are, therefore, of the view that clause 37 is squarely attracted. We are satisfied that the



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Government has not put to any kind of loss. He also further states that the contractor at his own cost put up the retaining wall. The photographs of the retaining wall constructed have been produced before us.

5. Since the petitioner continues to insist that there is a design flaw, we direct the second respondent to go into the petitioner's complaint and satisfy himself that the construction was done with sound quality and is in compliance with the specifications laid down in the agreement. The second respondent will communicate his decision to the petitioner in this regard. The entire exercise shall be completed within a period of ten weeks from the date of receipt of a copy of this order.

6. This Writ Petition is disposed of accordingly. No costs.

(G.R.S., J.) (V.L.N., J.)
23.05.2025

Index: Yes/No
Speaking order / Non-speaking order
Neutral Citation: Yes / No
kkn / vum

To:-

1. The Additional Chief Secretary,
State of Tamil Nadu,

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