



W.P.No.17833 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED : 03.06.2025

CORAM

THE HONOURABLE MR.JUSTICE **M.SUNDAR**
and
THE HONOURABLE MR.JUSTICE **HEMANT CHANDANGOUDAR**

W.P.No.17833 of 2025
&
W.M.P No.20066 of 2025 in W.P.No.17833 of 2025

M.Sellappan

... Petitioner

Vs.

1. The Tahsildar cum Chairman
Administrative Advisory Committee
Taluk Office, Oulgrade
Puducherry

2. The Commissioner
Oulgaret Municipality
Puducherry – 5

3. S.Velmurugan

4. S.Murugaian

... Respondents

Writ Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records connected with the notice issued in F.No.51-32/AE-II/JE(3)/OM/2022-23 dated 13.03.2025 passed by the second respondent and quash the same and consequently direct the second respondent to implement the first respondent

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order issued in No.3165/TOO/LG/E/2020 dated 26.06.2023.

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For Petitioner : Mr.S.Ilamvaludhi

For Respondents : Mr.R.Sreedhar
Addl. Govt. Pleader (Puducherry)
for R1 and R2

ORDER

[Order of the Court was made by **M.SUNDAR, J.,**]

Captioned 'Writ Petition' ['WP' for the sake of brevity] has been filed with a prayer seeking issue of writ of certiorarified mandamus.

2. In and vide the certiorari limb of the prayer, a notice dated 13.03.2025 bearing reference F.No.51-32/AE-II/JE(3)/OM/2022-23 issued by R2 (Commissioner, Oulgaret Municipality, Puducherry) has been assailed and this notice shall hereinafter be referred to as 'impugned notice' for the sake of convenience and clarity.

3. Mr.S.Ilamvaludhi, learned counsel for writ petitioner advertng to the impugned notice points out that the same pertains to 'R.S.No.241/77 in



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Kalapet Revenue Village, Oulgaret Municipality, Union Territory of Puducherry' [hereinafter 'said land' for the sake of brevity and convenience],

said land is located i.e., situate within Pondicherry University campus (does not belong to the Municipality) and therefore, the impugned notice is bad.

4. Issue notice to official respondents.

5. Mr.R.Sreedhar, learned Additional Government Pleader (Puducherry) accepts notice for official respondents and learned State counsel adverting to the impugned notice points out that it is only a 'show-cause notice' ['SCN' for the sake of brevity] under Section 415 (1) of Pondicherry Municipalities Act, 1973' [hereinafter 'said Act' for the sake of convenience].

6. In response to the above submission of learned State counsel, learned counsel for writ petitioner drew our attention to proceedings made by R1 being proceedings dated 26.06.2023 bearing reference No.3165/TOO/LG/E/2020 and learned counsel drew our attention to



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paragraphs 9 and 10 thereat, which read as follows:

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'9. AND WHEREAS, in order to proceed further, a letter was addressed to the Commissioner, Oulgaret Municipality, Puducherry to clarify whether the above said pathway is a common pathway and was handed over to Oulgaret Municipality and in response to which a communication has been received from the Commissioner, Oulgaret Municipality vide letter, dt.09.04.2021 stating that the mentioned land in R.S.No.77 of Kalapet Revenue Village is located within the Pondicherry University campus and does not belong to this Municipality.

10. AND WHEREAS, during the enquiry held on 28.02.2023, all the parties appeared and also raised allegation against each other for encroaching the pathway. They were explained the facts that the common pathway comprised in R.S.No.241/77 of Kalapet Revenue Village is a GP land with remarks as 'Alley' in the Settlement Register which cannot be claimed by any individual person. Finally, an amicable settlement has been reached and assured that they would not raise any allegation further and also not to prevent other rights in utilizing the same.'

7. Learned State counsel advertng to the aforesaid proceedings and aforementioned paragraphs submitted that an error has crept in and an effort is being made to take advantage of the same. We deem it appropriate to not



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to express any opinion or view one way or the other on this rival competing submissions as we are of the considered view that the impugned notice being an SCN does not deserve to be interfered with at this stage.

8. As regards SCN, a writ Court would interfere only when a) it pertains to enforcement of a fundamental right, b) where there is violation of Natural Justice Principle (NJP), c) where the proceedings are wholly without jurisdiction and d) where a vires of a Statute is challenged. This has come to stay as '*Whirlpool exceptions*' being Whirlpool principle which in turn is a ratio in *Whirlpool Corporation Vs. Registrar of Trade Marks, Mumbai* reported in *CDJ 1998 SC 371*.

9. We find that the question where the said land situate i.e., as to whether it situate inside the University campus or elsewhere and as to whether it situate within Municipality limits turns heavily on facts and therefore, it would be appropriate to say that all these questions are left open for the writ petitioner in responding to the impugned SCN. We also make it clear that in responding to impugned SCN, it is open to the writ petitioner to



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press into service aforementioned proceedings dated 26.06.2023 bearing
reference 3165/TOO/LG/E/2020 made by R1.

10. Learned counsel for writ petitioner submits that the writ petitioner will do so in a fortnight from today i.e., on or before 17.06.2025 and thereafter, R2 shall consider the writ petitioner's response and proceed in accordance with Section 416 of said Act and/or other provisions of said Act.

11. Though obvious coercive action, if any and if that be so, can be only subject to and depending on the outcome of the aforementioned drill which shall be completed as expeditiously as the business of the official respondents would permit.

12. Be that as it may, as regards the private respondents we make it clear that this order does not touch upon the rights of the private respondents, on the contrary this order preserves all the rights and contentions of the private respondents. Therefore, with the consent of learned counsel for writ petitioner and learned State counsel, we take up the



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main WP in the Admission Board dispensing with notice to the private respondents.

13. Captioned WP disposed of in the aforesaid manner relegating the parties to the drill vide said Act, which has been alluded to supra. As we have made it clear that coercive action, if any and if that be so, shall be subject to and depending on Section 416 order / closure, captioned WMP has become otiose and the same is disposed of as closed. There shall be no order as to costs.

(M.S.,J.) (H.C.,J.)
03.06.2025
(1/2)

Index : Yes / No
Neutral Citation : Yes / No
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To

1. The Tahsildar cum Chairman
Administrative Advisory Committee
Taluk Office, Oulgrade
Puducherry
2. The Commissioner
Oulgaret Municipality
Puducherry – 5

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**M.SUNDAR, J.,
and
HEMANT CHANDANGOUDAR, J.,**

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