



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.P(MD)Nos.13854, 14381, 14382, 14383 & 14384 of 2025
and
W.M.P(MD)Nos.10018, 10566, 10575, 10577, 10568 & 10571 of 2025**

1.W.P(MD)No.13854 of 2025:

R.Manickam

... Petitioner

vs.

1.The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

2.Sankara Subramanian,
Divisional Engineer,
National Highways Wing,
Highways Department of Government of Tamil Nadu,
Trichy.

... Respondents



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the first respondent in Lr.No. 12/Encroachment/NH336/A2/2025, dated 22.04.2025 and quash the same.

For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For R – 1 : Mr.V.Om Prakash
Government Advocate

For R – 2 : No appearance

2.W.P(MD)No.14381 of 2025:

Vijaya

... Petitioner

vs.

1.The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

2.Sankara Subramanian,
Divisional Engineer,
National Highways Wing,
Highways Department of Government of Tamil Nadu,
Trichy.

... Respondents



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the first respondent in Lr.No. 12/Encroachment/NH336/A2/2025, dated 22.04.2025 and quash the same.

For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For R – 1 : Mr.M.Sarangan
Additional Government Pleader

For R – 2 : No appearance

3.W.P(MD)No.14382 of 2025:

A.Indira ... Petitioner

vs.

1.The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

2.Sankara Subramanian,
Divisional Engineer,
National Highways Wing,
Highways Department of Government of Tamil Nadu,
Trichy.

... Respondents



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the first respondent in Lr.No. 12/Encroachment/NH336/A2/2025, dated 22.04.2025 and quash the same.

For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For R – 1 : Mr.M.Sarangan
Additional Government Pleader

For R – 2 : No appearance

4.W.P(MD)No.14383 of 2025:

S.Megala ... Petitioner

vs.

1.The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

2.Sankara Subramanian,
Divisional Engineer,
National Highways Wing,
Highways Department of Government of Tamil Nadu,
Trichy.

... Respondents



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the first respondent in Lr.No. 12/Encroachment/NH336/A2/2025, dated 22.04.2025 and quash the same.

For Petitioner : Mr.R.Subramanian
for Mr.M.Saravanan

For R – 1 : Mr.M.Sarangan
Additional Government Pleader

For R – 2 : No appearance

5.W.P(MD)No.14384 of 2025:

J.Bennyamin

... Petitioner

vs.

1.The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

2.Sankara Subramanian,
Divisional Engineer,
National Highways Wing,
Highways Department of Government of Tamil Nadu,
Trichy.

... Respondents

5/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, calling for the records pertaining to the impugned notice issued by the first respondent in Lr.No. 12/Encroachment/NH336/A2/2025, dated 22.04.2025 and quash the same.

For Petitioner	: Mr.R.Subramanian for Mr.M.Saravanan
For R – 1	: Mr.M.Sarangan Additional Government Pleader
For R – 2	: No appearance

COMMON ORDER

(Order of the Court was made by S.M.SUBRAMANIAM, J.)

The lis on hand has been instituted challenging the notice issued under Section 26(2) of the Control of National Highways (Land and Traffic) Act, 2002 (hereinafter referred to as “the Act, 2002”) for removal of encroachment in National Highways.



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

2. During the previous round of litigation, the petitioners have raised the ground that the notices for removal of encroachment in the National Highways were issued by an incompetent authority having no jurisdiction. The Act, 2002 contemplates that the Executive Engineer is the competent authority and therefore, the notices issued by the Divisional Engineer of the National Highways (a wing of the State Administration) were incompetent to issue the notices. On the said ground, the Writ Petitions were allowed. Liberty was granted to the concerned authorities to issue fresh notices through a competent authority under the Act, 2002.

3. In pursuance to the orders of this Court, further notices were issued by the Divisional Engineer, National Highways (a wing of the State Administration) under Section 26(2) of the Act, 2002. Challenging said notices, the present Writ Petitions came to be instituted once again on the ground that the Divisional Engineer, National Highways (a wing of the State Administration) is an incompetent authority, since the impugned notices were not issued by the authority under the provisions of the Act, 2002.



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

4.Mr.R.Subramanian, learned counsel appearing for the petitioners submitted that once the point of jurisdiction is raised and under the Act, 2002, the Divisional Engineer, National Highways (a wing of the State Administration) is incompetent, interim orders were granted and therefore, the present Writ Petitions are to be considered on the said ground.

5.The learned Additional Government Pleader appearing for the National Highways (a wing of State Administration) opposed the Writ Petitions stating that the Government of India, Ministry of Road Transport and Highways (Highways Administration Cell), vide order dated 30.05.2024, authorized the Divisional Engineers of the Public Works Department of Tamil Nadu to exercise the powers and functions of the Highways Administration conferred under Sections 24, 26, 27, 30, 33, 36, 37 and 43 of the Act, 2002 within their territorial jurisdiction.

6.The learned Additional Government Pleader appearing for the first respondent further drew the attention of this Court to Sections 3 and

8/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

26(2) of the Act, 2002 and submitted that the National Highways, being a wing of the State Highways Department, is in charge of the maintenance of the National Highways within the territory of the of Tamil Nadu. Mere change in nomenclature as Public Works Department or National Highways by the State Administration would make no difference. Therefore, the State Authorities functioning in the National Highways wing are empowered to exercise the powers conferred under the Act, 2002, as per the authorization granted by the Government of India, Ministry of Road Transport and Highways.

7.It is further contented that the petitioners are encroachers in the National Highways road. Encroachments obstruct the free flow of vehicles in National Highways and such encroachments would pave way for frequent accidents. Despite enforcement actions initiated long before, the encroachments are unable to be removed on account of multiple litigations filed on the ground of jurisdiction.



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

8.Let us now examine the point of jurisdiction raised by the petitioners. Admittedly, encroachments have been identified. The petitioners are litigating purely on the ground of jurisdiction. The Control of National Highways (Land and Traffic) Act 2002 (Central Act 13 of 2003) provides for control of land within the National Highways right of way and of traffic moving on the National Highways and also for the removal of unauthorized occupations thereon.

9.Section 2(e) defines “Highway”. Section 2(f) defines “Highway Administration” as the Highway Administration established under Section 3 of the Act, 2002. Sub-Section (1) to sub-Section (3) of Section 3 of the Act, 2002, enumerates establishment of Highway Administrations.

10.Section 3 of the Act, 2002 reads as follows:

“3.Establishment of Highway Administrations.—

(1) The Central Government shall, by notification in the Official Gazette,—

10/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

(a) establish, for the purposes of this Act, a body or authority consisting of one or more officers of the Central Government or the State Government to be known as Highway Administration to exercise powers and discharge functions conferred on it under this Act; and

(b) define the limits of the Highway within which, or the length of Highway on which, a Highway Administration shall have jurisdiction:

Provided that the Central Government may, in the notification issued under this sub-section or by any general or special order, impose any condition or limitation subject to which a Highway Administration shall exercise powers and discharge functions conferred on it under this Act.

(2) The Central Government may establish one or more Highway Administrations for a State or Union territory or for a Highway under sub-section (1).

(3) Subject to the provisions of this Act, the Highway Administration shall exercise powers and discharge functions conferred on it under this Act in such manner as may be prescribed.”



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

11.In the present case, the Central Government issued a notification authorizing the State Government to maintain the National Highways within the territory of the State of Tamil Nadu. By virtue of the said notification issued under Section 3 of the Act, 2002, the State Government has formed a separate wing under its State Highways Department which is named as “National Highways”. This wing was constituted by the State for better administration of the Government Departments, which is a prerogative of the Government of Tamil Nadu.

12.Section 26 of the Act, 2002 deals with removal of unauthorized occupation. Sub Section (2) of Section 26 of the Act, 2002 reads as under:

“26.Removal of unauthorized occupation:

.....

(2) When, as a result of the periodical inspection of highway land or otherwise, the Highway Administration or the officer authorised by such Administration in this behalf is satisfied that any unauthorised occupation has taken place on

12/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY *highway land, the Highway Administration or the officer so authorised shall serve a notice in a prescribed form on the person causing or responsible for such unauthorised occupation requiring him to remove such unauthorised occupation and to restore such highway land in its original condition as before the unauthorised occupation within the period specified in the notice.”*

13.It is relevant to extract the order passed by the Government of India, Ministry of Road Transport and Highways, dated 30th May 2024, which is extracted hereunder:

*“NH-11011/85/2023-LA (CN.22917)
Government of India
Ministry of Road Transport and Highways
(Highway Administration Cell)
Transport Bhawan, 1 Parliament Street, New Delhi 111 001*

Dated 30th May 2024

ORDER

I am directed to refer to notification issued vide Government of India order S.O.3293(E) dated 16.09.2019 regarding establishment of Highway Administration under sub-Section (2) of Section 3 of The Control of National



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

Highways (Land and Traffic) Act 2002 and to convey that, for the National Highways entrusted to the Public Works Department of Tamil Nadu, the Divisional Engineers shall exercise the powers and functions of Highways Administration conferred under Sections 24, 26, 27, 30, 33, 36, 37 and 43 of the said in respect of their territorial jurisdiction.”

14.It is not in dispute that the Central Government by way of notification is empowered to authorize the State Administration to initiate action for removal of encroachments and to maintain National Highways within the State of Tamil Nadu. The ground raised by the petitioners is that the Divisional Engineer, National Highways (a wing of the State Highways) is not the competent authority. This position has been clarified by the Government of India in the letter dated 30th May 2024 extracted above. The said letter indicates that notification was issued by the Government of India order S.O 3293(E) dated 16.09.2019 regarding establishment of the Highway Administration under sub-Section (2) of Section 3 of the Act, 2002. Therefore, the power of the Highway Administration of the State is

14/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

traceable with reference to the notification issued by the Government of India, dated 30th May 2024 under sub-Section (2) of Section 3 of the Act, 2002.

15.Once such notification is issued under Section 3(2) of the Act, 2002, the Highway Administration of the State is empowered to exercise powers under the Act, 2002. It is immaterial whether the notice is issued by the National Highways wing or any other wing constituted by the State for the maintenance of National Highways for better administration of the Government Departments.

16.The notification unambiguously stipulates that it was issued by the Government of India “regarding establishment of Highway Administration”. The state of Tamil Nadu has two separate wings for the maintenance of roads ie., State Highways Department as well as National Highways wing. This structure is maintained for administrative convenience and is the prerogative of the State Government. Therefore the jurisdiction

15/20



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

point raised by the petitioners that the Divisional Engineer, National Highways (a wing of the State Highways Department) has no jurisdiction is untenable and unacceptable.

17. Section 26(2) of the Act, 2002, in unequivocal terms reads as follows:

*"When, as a result of the periodical inspection of highway land or otherwise, the Highway Administration or **the officer authorised by such administration in this behalf is satisfied that any unauthorised occupation has taken place on highway land, the Highway Administration or the officer so authorised shall serve a notice in a prescribed form on the person causing or responsible for such unauthorized occupation requiring him to remove such unauthorized occupation and to restore such highway land in its original condition**".*

[emphasis supplied]

18. Therefore, the Act, 2002 speaks about "Highway Administration". The State is empowered to constitute different wings under



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

the head of “Highway Administration”. In the state of Tamil Nadu, several wings are formed to maintain public works including State Highways, National Highways and maintenance of public buildings etc. When several wings are constituted by the State Government for efficient public Administration, the same would not pave way for the petitioners to raise a ground that the Divisional Engineer, National Highways has no jurisdiction to exercise the powers under Section 26 of the Act, 2002.

19.The learned counsel appearing for the petitioners relied on the Judgment of the Hon'ble Supreme Court in the case of ***Gunasekaran vs Divisional Engineer, National Highways and others [(2021) 10 SCC 505]***. In the said case, the facts reveal that the show cause notices, impugned in those cases are admittedly issued seeking shelter under Section 5 of the National Highways Act, 1956. The Apex Court dealt with the provisions of the Act, 2002 also. However, the facts of the present case and the subsequent developments needs to be considered. Firstly, the facts before the Apex Court and in the present case are distinguishable. Secondly, the Judgment



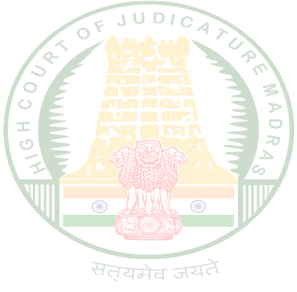
W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

cited supra was delivered on 24th August 2021. In the present case, the Government of India, Ministry of Road Transport and Highways, has issued a clarification dated 30th May 2024 based on a notification issued under Section 3(2) of the Act, 2002.

20. When the Government of India has authorized the Divisional Engineers of the State Highways Administration, the petitioners cannot now contend that the Authorised Officer / the Divisional Engineer, National Highways, is incompetent to issue notice under Section 26 of the Act 2002.

21. In view of the fact that the Act, 2002 and the consequential notification issued by the Government of India in exercise of the powers under Section 3(2) of the Act, 2002 are unambiguous, the impugned notices have been issued by the competent authority. Therefore, this Court is of the considered view that the enforcement actions initiated are to be continued by following further procedures as contemplated under the Act, 2002.



W.P(MD)No.13854 of 2025 and etc., batch

WEB COPY

22. Accordingly, these Writ Petitions are dismissed. There shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

[S.M.S.,J.] & [A.D.M.C.,J.]
07.08.2025
(1/2)

NCC : Yes / No
Index : Yes / No
Internet : Yes
ps

To

The Divisional Engineer,
National Highways Wing,
Highways Department,
Government of Tamil Nadu,
Trichy.

19/20



WEB COPY



W.P(MD)No.13854 of 2025 and etc., batch

S.M.SUBRAMANIAM, J.
and
DR.A.D.MARIA CLETE, J.

ps

ORDER MADE IN
W.P(MD)Nos.13854, 14381, 14382, 14383 & 14384 of 2025

DATED : 07.08.2025
(1/2)

20/20