

WP(MD) No.21007 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Special Original Jurisdiction)

**Tuesday, the Twenty Ninth day of August Two Thousand and Twenty Three
PRESENT**

The Hon`ble Mr.Justice B.PUGALENDHI

WP(MD) No.21007 of 2023

and

WMP(MD) Nos.17426 & 17428 of 2023

PANCHAVARNAM KUMAR

THE PRESIDENT,

THIRUCHUZHILI FIRST GRADE PANCHAYAT,

TIRUCHUZHILI-626 129,

VIRUDHUNAGAR DISTRICT.

... PETITIONER

Vs

1 THE DISTRICT COLLECTOR / THE INSPECTOR OF PANCHAYATS,

VIRUDHUNAGAR DISTRICT,

VIRUDHUNAGAR

2 THE BLOCK DEVELOPMENTAL OFFICER,

THIRUCHUZHIL, RETTIYAPURAM,

VIRUDHUNAGAR DISTRICT.

... RESPONDENTS

Writ Petition filed praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned proceedings of the 1st respondent in J1/3801/2022 dated 31.05.2023 and the consequential impugned proceedings of the 1st respondent in Na.Ka.J1/1609/2022 dated 25.07.2023 and quash the same as illegal and consequently restrain the respondents from issuing tender to the Thiruchuzhi First Grade Panchayat, Virudhunagar District contrary to Tamil Nadu Panchayat Act, 1994.

Prayer in WMP(MD). 17426/ 2023 :

To grant an order of Ad-interim Stay of operation of all further proceedings of the impugned proceedings of the 1st respondent in J1/3801/2022 dated 31.05.2023 and the consequential impugned proceedings of the 1st respondent in

<https://www.mhc.tn.gov.in/judis>



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Na.Ka.J1/1609/2022 dated 25.07.2023 pending disposal of the present writ petition.

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Prayer in WMP(MD). 17428/ 2023 :

To grant an order of Ad-Interim Injunction restraining the respondents or its men or agent from executing any of the works related to drinking water pending disposal of the present writ petition.

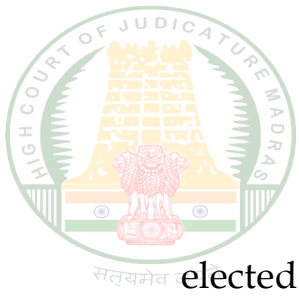
ORDER : This writ petition coming up for orders on this day, upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of M/S.K.SEEMARAJ, Advocate for the petitioner and of M/S.D.FARJANA GHOSHIA, Special Government Pleader on behalf of the Respondents, the court made the following order:-

The petitioner is an elected President of a Panchayat. He has filed this writ petition as against the order passed by the District Collector granting the powers with regard to the execution of certain works under the Jal Jeevan Mission Scheme with the Block Development Officer as against the elected members.

2.Learned Counsel appearing for the petitioner has relied upon a decision of this Court in P.Kaliyuganathan and Others v. State of Tamil Nadu and Others [WP (MD)Nos.8929 of 2020, dated 18.08.2020], wherein, this Court has held as follows:-

“19.The respondents have not kept in view the constitutional objective as adumbrated above. Duly elected local bodies have been treated as non-existent and totally ignored in the process of decision making. While the District Collector is the authority competent to accord administrative sanction for tender works valued more than Rs.50,000/-,

the proposals must emanate from the local bodies concerned. If there is no



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electd local body, the Block Development Officer can submit proposals.

Unless it is a case of emergency, it is the local body that must deliberate and make the proposals. The central government had specifically mandated that the funds are for the local bodies. The manner of utilisation has also been spelt out. The government orders mentioned above speak of formulation of village development plan. In these cases, nothing of the sort has happened. While Part IX of the Constitution envisages bottom-up model, the respondents believe in top-down approach.

20.I must refer to yet another contention advanced by the learned Additional Advocate General. It is true that when the Village Panchayat Presidents challenged the cleaning and de-silting of the water bodies by filing W.P(MD)No.5608 of 2020 etc. batch, they suffered a dismissal at the hands of another learned single Judge by order dated 10.03.2020. But those works pertained to utilisation of State Finance Commission grants provided by the State Government for the water bodies. But in the case on hand, what is involved is the utilisation of the grants and funds made available by the 14th Central Finance Commission. Therefore, the directions issued by the Central Government will have to be followed by



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the respondents. The Central Government had very clearly stated that the funds ought to be released only to the Village Panchayats. But in this case, the elected bodies or the Village Panchayats had been completely bypassed. Therefore, I have to necessarily hold that the notifications challenged in W.P(MD).Nos.9545 and 9554 of 2020 are unconstitutional and illegal. They are quashed. The village panchayats concerned shall deliberate and submit fresh proposals for the utilisation of the funds and the respondents shall extend their cooperation for proper utilisation of the funds. The revised tender process shall be carried out in accordance with law and in the manner indicated above. Accordingly, WP(MD)Nos.9415, 9545 and 9554 of 2020 are allowed."

3.Issue notice to the respondents returnable in two weeks. Private notice is also permitted.

Post the matter after two weeks. Since the petitioner has made out a prima facie case, there shall be an order of interim stay for a period of two weeks.

sd/-
29/08/2023

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/09/2023
Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.



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VIRUDHUNAGAR DISTRICT,
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2 THE BLOCK DEVELOPMENTAL OFFICER,
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VIRUDHUNAGAR DISTRICT.

+1. C.C. to M/S.K.SEEMARAJ Advocate SR.No.12921[I]

ORDER IN

WP(MD) No.21007 of 2023 and
WMP(MD) Nos.17426 & 17428 of 2023

Date :29/08/2023

RS/VR/SAR-(04.09.2023) 5P 4C

Madurai Bench of Madras High Court is issuing
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