

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.09.2021

CORAM :

THE HON'BLE MR.SANJIB BANERJEE, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE P.D.AUDIKEVALU

W.P.No.2709 of 2021

G.Sundarrajan

.. Petitioner

Vs

- 1.Union of India,
rep. by the Secretary,
Ministry of Environment, Forests and Climate Change,
'Parayavaran Bhavan',
CGO Complex, Lodhi Road,
New Delhi – 110 003.
- 2.State of Tamil Nadu,
rep. by the Principal Secretary to Government,
Environment and Forests (FR.5) Department,
Secretariat, Chennai – 600 009.
- 3.Conservation Authority of Pallikaranai Marsh Land,
rep. by the Member Secretary,
Office of the Conservator of Forests, Chennai Circle
259, Anna Salai, DMS Complex,
Teynampet, Chennai – 600 006.

4.The Principal Chief Conservator of Forests
and Chief Wildlife Warden,
Panagal Maaligai,
1, Jeenis Road, Saidapet,
Chennai – 600 015.

5.The Chairman,
Tamil Nadu Pollution Control Board,
Chennai – 600 032.

.. Respondents

Prayer: Petition filed under Article 226 of the Constitution of India seeking issuance of a writ of certiorarified mandamus calling for the records in the order bearing No.G.O.(3D) No.29, Environment and Forests (FR.5) Department, dated 4.9.2018 issued by respondent No.2-State of Tamil Nadu and quash the same so far as it relate to non-release of 20.51 crore directly to respondent No.3 and so far as it relates to the proposal of respondent-State of Tamil Nadu to commence "dredging work" in Pallikaranai Marsh, Chennai and directing respondent No.2-State of Tamil Nadu to release 20.51 crore to respondent No.3 for the implementation of the Eco-restoration, Protection and Conservation works in Pallikaranai Marsh Land and not to undertake "dredging work" in Pallikaranai Marsh, Chennai without proper scientific study.

For the Petitioner : Mr.M.Radhakrishnan

For the Respondents : Mr.V.Udayakumar
for respondent No.1

: Mr.C.Harsha Raj
Counsel for the State
for respondent Nos.2 to 4

: Ms.Shanmugavalli Sekar
for respondent No.5

ORDER

(Order of the Court was made by P.Audikesavalu, J.)

The Petitioner in this Public Interest Litigation seeks to quash G.O.(3D) No.29, Environment and Forests (FR.5) Department, dated 04.0-9.2018 issued by the Second Respondent – Principal Secretary to Government, Environment and Forests (FR.5) Department, State of Tamil Nadu in so far it relates to non-release of 20.51 Crore directly to the Third Respondent – Member Secretary, Conservation Authority of Pallikaranai Marsh Land and to direct the Second Respondent to release 20.51 Crore to the Third Respondent for implementation of Eco-restoration, Protection and Conservation works in Pallikaranai Marsh Land and also not to undertake “dredging work” in the Pallikaranai Marsh.

2. Mr. M.Radhakrishnan, Learned Counsel for the Petitioner expresses that the complaint of the Petitioner is two-fold.

3. The first objection is that in G.O. Ms. No. 103, Environment and Forests (FR.5) Department, dated 31.03.2012, the Government of Tamil Nadu had specifically mentioned that the funds/financial

assistance received from the State/Central Government would be deposited in the bank account of the Society, viz., Conservation Authority of Pallikaranai Marsh Land, to be opened in a nationalized bank and utilized for carrying out the works, but subsequently, in G.O. (3D) No. 29, Environment and Forests (FR.5) Department, dated 04.09.2018, the Principal Chief Conservator of Forests and Chief Wildlife Warden have been named as the authorities to utilize the amount of Rs. 20.30 Crore for the implementation of Comprehensive Management Plan components like eco-restoration, protection and conservation works in Velachery Road (657/1A) portion of Pallikaranai Marsh land during the year 2018-2019 for the works mentioned in the annexure to that Governmental Order. In this regard, the Third Respondent has stated in paragraph 14 of the Counter-Affidavit dated 30.03.2021, as follows:-

"14.A bank account in Punjab National Bank at Mylapore branch in the name of CAPML (Conservation Authority of Pallikaranai marsh land) has already been opened and the fund Rs.20.30 Crores has also been received directly to that account as per Government Order No.G.O.(Ms).No.99, Environment and Forest (FR-5) Department, Dated 17.07.2018. Further based on the

proposal received from the respondent 3, the same had been sent to Government for approval by Respondent 4 is one of the Member of Governing Body in CAPML.”

Having regard to that explanation, it is represented by the Respondents that another Governmental Order would be shortly issued confirming that all amounts to be received in future from the State and Central Government for maintenance and other works would be remitted into the relevant bank account in the name of the Conservation Authority of Pallikaranai Marsh Land only.

4. The other resentment of the Petitioner is that the Respondents are carrying out dredging work in Pallikaranai Marsh Land, which would adversely affect the ecology. In this regard, it is noticed from paragraphs 16 and 17 of the same Counter-Affidavit of the Third Respondent, as extracted below:-

“16. It is respectfully submitted that the NABCONS (NABARD Consultancy service) had prepared a Detail Project Report (DPR) on “Improved resilience of urban eco system to climate change through restoration of Pallikaranai marshland” under Green Climate Fund. In the DPR it was stated that in order to maintain the brackishness and to maintain the water holding capacity,

the hydrodynamic studies based on the tidal boundary and the water depth condition of the existing marshland which suffers from extensive sedimentation, debris, encroachment and sewerage disposal are considered. The study revealed that the hydrodynamic condition and pattern differs in different locations.

In the DPR, Removal of debris and de-silting of channels is proposed on the North side of the 200 feet road (Velachery -Tambaram Main Road) which is to be subjected to debris removal and desiltation to maintain level and the encroachment area in the wetland which is to be restored. The removal of debris was done on Velachery – Tambaram Main Road area of Marsh to restore the ecology of Marsh, which is as per above study suggested.

17. It is respectfully submitted that removal of debris has been done and shallow water habitats have been created by in the Marsh Land. With the removed debris, bund has been formed and along the bund walk path has been created and the bund was strengthened and stabilized by vegetation by planting native indigenous tree species, shrubs and herbs. The alien and invasive species like prosopis have been removed. The Marsh Land has been consolidated by construction of protection barrier along

Velacherry – Tambaram main road over a length of 1700 metres. Necessary Models and Signages have been displayed on the bund about wetlands to create awareness about wetlands and the bio-diversity that Pallikaranai Marsh Land supports.”

Mr. C.Harsha Raj, Learned Government Counsel appearing for the Second to Fourth Respondents submits that dredging work had to be carried out only for the aforesaid reasons, which has also been completed, and he adds that there shall not be any more dredging work in future except when such necessity arises out of removal of any encroachments. The said statement made is placed on record.

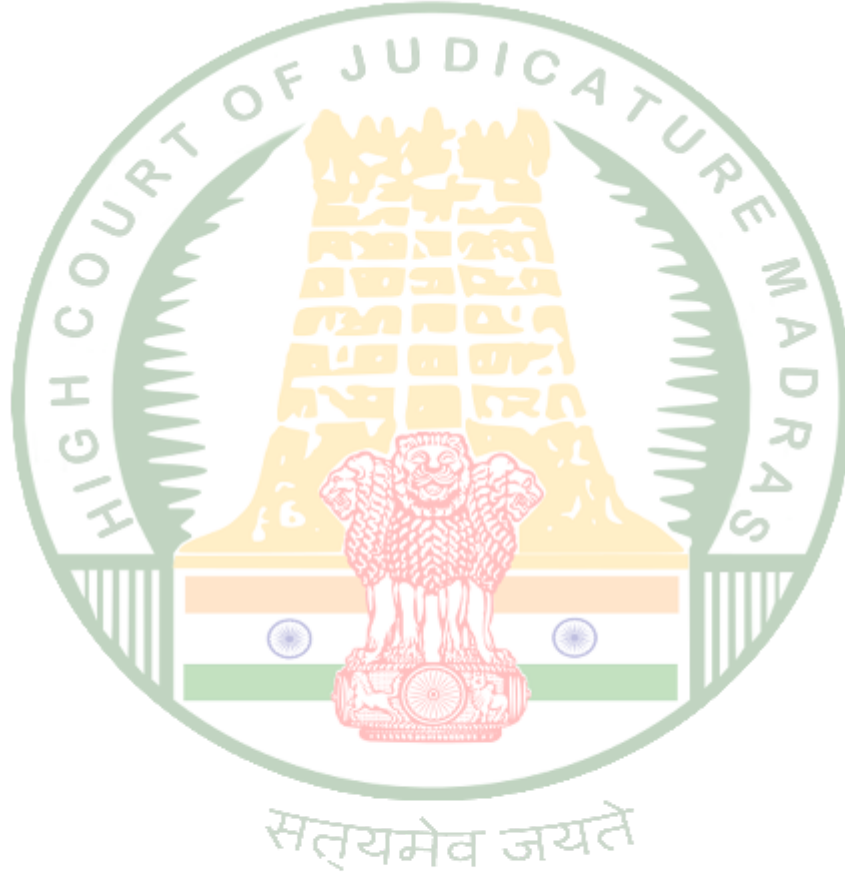
5. The grievances of the Petitioner have been satisfactorily redressed and nothing remains for further consideration in this Writ Petition.

6. In the upshot, W.P. No. 2709 of 2021 is disposed of. W.M.P. Nos. 3040 and 3041 of 2021 are closed. There will be no order as to costs.

(S.B., CJ.) (P.D.A., J.)
22.09.2021

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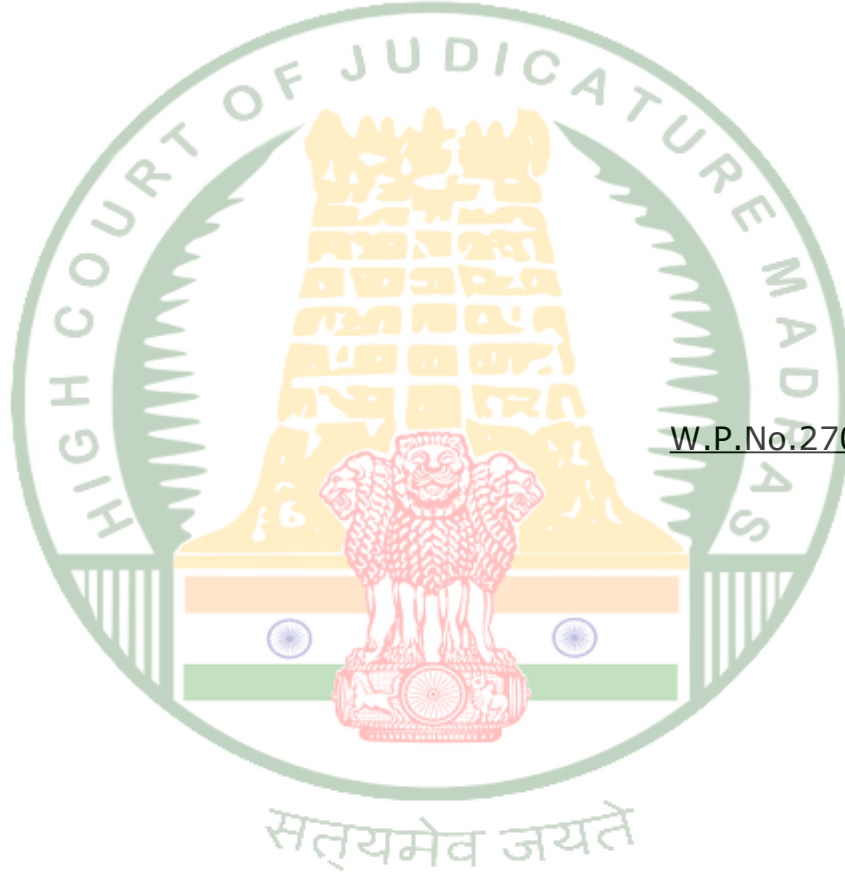
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