
(2015) 07 MAD CK 0352

In the Madras High Court

Case No : Writ Petition (MD) No. 10224 of 2015

R. Ramasamy

APPELLANT

Vs

The Registrar General and Others

RESPONDENT

Date of Decision : 31-07-2015

Acts Referred:

Constitution of India, 1950 — Article 226
Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 — Section 46

Citation : (2015) 07 MAD CK 0352

Hon'ble Judges : S. Manikumar, J;G. Chockalingam, J

Bench : Division Bench

Advocate : S.S. Sundar, Advocates for the Respondent

Judgement

S. Manikumar, J—On this day, Mr.A.Mohamed Ali, Under Secretary to Government, Home (Courts) Department, is present. He submitted that proposal, dated 23.03.2015, forwarded by the Registrar General, High Court, Madras, to the Principal Secretary to Government, Home (Courts) Department He further submitted that today, the Secretary to Government, Home Department, Government of Tamil Nadu, has sent the proposal, for providing three numbers of lift and ramp for ground, first and second floors in the combined District Court Buildings, Madurai District, to the Secretary to Government, Public Works Department. He further submitted that thereafter, papers would be circulated to the Secretary to Government, Finance 3 Department, Government of Tamil Nadu, for consideration and as per the procedure, it would be circulated to the Hon'ble Minister for Finance and Hon'ble the Chief Minister, State of Tamil Nadu, respectively. After obtaining necessary orders from the above authorities, Government would issue necessary orders, for sanctioning the amount for construction of lifts and ramps in the combined District Court Building, Madurai District, Madurai.

2. Earlier on 23.07.2015, we have passed the following Orders:-

"On 03.07.2015, we have passed the following orders:-

"In the matter of providing lift facilities for differently abled persons in the Court buildings, proposals now stated to be pending from the year 2010 onwards. The Chief Engineer, P.W.D. Madurai, is directed to appear on 06.07.2015.

Post on 06.07.2015, immediately after motion list."

2. The Chief Engineer (Buildings) PWD, Madurai Region, Madurai, is present in Court and submitted that cost estimate details, sketch, plan for making provision of Ramps and Elevators, in the premises of District Court, Madurai, have been furnished to the Principal District Judge, Madurai, on 10.07.2015. He has further submitted that the detailed letter in Lr.No: AEE-II/C117/2015, 08.07.2015, is also sent to the Chief Engineer, Chennai, for seeking administrative sanction. The letter dated 8.7.2015, is extracted hereunder:-

Lr. No: AEE-II/C117/2015/Dt:08.07.2015

Sir,

Sub : Buildings - Provision of Lift in Combined District Court at Madurai - Direction of High Court Bench at Madurai - Rough Cost Estimate Submitted - Regarding.

Based on the representation given by Advocate, Mr.R.Ramasamy, The Principal District Judge, Madurai has requested Executive Engineer, Madurai to send feasibility report regarding the provision of Ramp and Lift facilities in Combined District Court at Madurai.

In the meanwhile, Mr.R.Ramasamy filed the Writ Petition (MD) No. 10224 of 2015) - pray for construction of Ramp and Lift facilities to the Madurai District Court Complex and fix a time frame. The above said case came up for hearing on 03.07.2015 and the Hon"ble High Court directed to appear the Chief Engineer, PWD., (Buildings) Madurai Region, Madurai on 06.07.2015. Accordingly, the under signed appeared in the Hon"ble High Court and informed that, Rough Cost Estimate for 3 Nos. of Lift and ramp facility has been prepared according to the site conditions.

Based on the statement given by the Chief Engineer (Buildings), Madurai Region, Madurai, Hon"ble High Court on 06.07.2015 passed orders to provide 3 Nos. of Lift and Ramp for Ground, First and Second Floors in Combined District Court Building at Madurai. The Hon"ble High Court have also instructed to obtain Administrative Sanction from the Government at the earliest. The next hearing date for the above WP will be on 20.07.2015.

Based on the above direction of the Hon"ble High Court, the Rough Cost Estimate for providing 3 Nos. of Lift and Ramp for Ground, First and Second Floors in Combined District Court Building at Madurai is sent herewith for necessary action. The above said Rough Cost Estimate has been prepared based on the current plinth area rate for the year 2014-15 and works out to Rs.

1,31,90,650.00. The Principle District Judge, Madurai has counter signed the above said estimate. The Administrative Sanction for the above work may please be obtained and communicated to his office at the earliest

Encl.: Rough Cost Estimate - 2 Nos.

for Chief Engineer, (Buildings) PWD., Madurai Region, Madurai.

3. It is also brought to the notice that the order of this Court, dated 6.7.2015, made in W.P.(MD) No. 10224 of 2015, has been directed to be placed before the Hon"ble Judges of Building Committee.

4. In the forenoon, when the matter came up for hearing, we directed Mr.C.Selvaraj, learned Special Government Pleader, to ascertain, as to whether the Principal Secretary to Government, Public Works Department, Chennai, respondent No. 5, has received the copy of rough costs estimate, sketch and plan and the requisition from the Chief Engineer, Madurai, for administrative sanction of a sum of Rs. 1,31,90,650/-.

5. Adverting to the above, learned Special Government Pleader submitted that the entire papers have been received at the Secretariat, on 20.07.2015 and right now, it is on the table of the Deputy Secretary, P.W.D.

6. Providing infrastructure for Courts and other amenities, and facilities for the differently abled persons, as per the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, have to be done by the Ministry, Home Affairs, in consultation with Finance and Public Works Departments. Though requests have been made to the concerned authorities long ago, now the feasibility report has been submitted and in our order, dated 6.7.2015, we have directed as follows:-

Mr.R.Ramasamy, a differently abled and practising Advocate at the District Court, Madurai and in the Madurai Bench of Madras High Court, Madurai, has sought for a mandamus, directing the Registrar General, Madras High Court, Chennai, and three others, to construct ramp or lay lifts for the 1st and the 2nd floors in the District Court Complex, Madurai, within a time frame.

2. In the supporting affidavit, the petitioner has stated that the District Court Complex, Madurai, consists of 27 courts. Thousands of litigants attend courts, every day. Differently abled persons, who attend courts, find it difficult to move from one place to another, as there is no ramp facility available, in the Court complex. Though the petitioner, a differently abled, has sent representations to the respondents to provide lifts and ramps, the same remain unanswered. In the supporting affidavit, the petitioner has also incorporated Section 46 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which states that the appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for - (a) ramps in public buildings; (b)adaptation of toilets for wheel chair users"; (c) brailee symbols and auditory signals in elevators or

lifts; (d)ramps in hospitals, primary health centres and other medical care and rehabilitation institutions

3. On the strength of the above said statutory provision, Mr.R.Ramasamy, Advocate and party-in-person, submitted that inasmuch as there is failure on the part of the authorities to discharge their duties, mandamus is sought for.

4. When the matter came up for hearing on 03.07.2015, Mr.S.S. Sundar, learned counsel appearing for respondents 1 and 2 submitted that despite requests, feasibility report for installation of lifts and ramps has not been furnished to them, by the Public Works Department. In the light of the above stated statutory provisions and the failure on the part of respondents 3 and 4 to discharge their duties as per Section 46 of the Act, we were constrained to direct the Chief Engineer, Public Works Department, Madurai, to appear before us. Accordingly, Mr. Anbalagam, Chief Engineer, Public Works Department, Madurai, appeared before us, today. He regretted for the delay in sending the feasibility report. He also submitted that provision for three lifts for the 1st and the 2nd floors, and construction of ramps in the ground floor, first floor and 2nd floor, is feasible. Details of Rough Cost Estimate and sketch/plan, prepared by the Assistant Engineer, Assistant Executive Engineer and Executive Engineer, Public Works Department, Buildings, Madurai, countersigned by the Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, filed in the court shall be treated as part of the records. Details of rough cost estimate read as under:

"ROUGH COST ESTIMATE

REPORT TO ACCOMPANY THE ROUGH COST ESTIMATE FOR PROVIDING 3 NO'S OF LIFT ARRANGEMENTS FOR FIRST AND SECOND FLOOR AND CONSTRUCTION FO RAMP TO GROUND FLOOR INCOMBINED DISTRICT COURT BUILDING AT MADURAI DISTRICT.

Estimate for the year 2015-16: Rs. 1,01,65,650/-

The Principal District Judge, Madurai has requested vide Lr. No. D. No. 7964/ Dt:14.05.2015 to prepare the Rough cost estimate for Providing 3 No's of lift arrangements for first and second floor and construction for ramp to Ground floor in Combined District Court building at Madurai district.

The following provisions have been made in the estimate.

1. Provision for 13 person capacity passenger lifts with all accessories. 2. Provision for Power mains from panel room to lift.
3. Provision for Additional loads for lifts
4. Provision for construction of lift well, machine room, etc.,
5. Provision for Advertisement charges
6. Provision for ramp to Ground Floor (Ent, East side and West side - 3 Nos.)

7. Provision for labour welfare fund at 1% of building cost

8. Provision for unforeseen items, PS charges and contingencies 2.5% of building cost

The rough cost estimate has been prepared based on the plinth area rates communicated by the Chief Engineer, PWD, (Buildings) Chennai.

The rough cost estimate works out as follows

Estimate for the year 2015-16: Rs. 1,01,65,650/-."

5. Though there is considerable delay in submitting the feasibility report for providing lifts and ramps in the 1st and the 2nd floors of the combined Court Buildings, Madurai, taking note of the fact that the Chief Engineer, Public Works Department, Madurai Region, has now taken steps to the prepare feasibility report, with rough estimate cost and the assurance given by him, that the matter would be taken up with the competent authority, for sanction of the amount as expeditiously as possible, we are inclined to accept the submission of the Chief Engineer, Public Works Department, Madurai Region. However, with regard to the submission of Mr.S.S. Sundar, learned counsel appearing for respondents 1 and 2, unless and until adequate number of copies of the rough cost estimate details and sketch/plan, duly signed by the Assistant Engineer, Assistant Executive Engineer and Executive Engineer, Public Works Department, Buildings, Madurai, and countersigned by the Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, are furnished to the learned Principal District Judge, Madurai, further steps could not be taken by respondents 1 and 2, we direct the Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, to furnish adequate number of copies of rough cost estimate, details of the same with ketch/plan, to the learned Principal District Judge, Madurai, by to-day itself. The Chief Engineer (Buildings, Public Works Department, Madurai Region, Madurai, has agreed to do so. The submission is placed on record.

6. On receipt of the above said details, learned Principal District Judge, Madurai District, Madurai, is hereby directed to forward the above to the Registrar General, High Court, Madurai, forthwith. Thereafter, the Registrar General, Madras High Court, Madras, shall place it before My Lord the Hon"ble Chief Justice, High Court of Madras, following the procedure..

7. Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, is also directed to forward the proposals, forthwith, to the Engineer in Chief, Buildings, Public Works Department, Chennai, for sanction of the amount, for construction of lifts and ramps, at the combined Court Buildings, Madurai. On receipt of the proposals from the Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, the Engineer in Chief, Buildings, Public Works Department, Chennai, shall take necessary steps, to see to it that the amount sought for, is sanctioned at the earliest.

8. In exercise of powers conferred under Article 226 of the Constitution of India,

we suo-motu implead the Principal Secretary to Government, Public Works Department, Fort St.George, Chennai-9 and the Principal Secretary to Government, Home (Courts) Department, Fort St.George, Chennai-9, as respondents 5 and 6, respectively. Registry is directed to make necessary amendments in the writ petition as well as in the miscellaneous petitions. Registry is further directed to issue copy of this order to the above said Secretaries, Government of Tamil Nadu..

9. Deputy Secretaries to Government, Public Works and Home (Courts) Departments, are directed to be present before this Court, on the next hearing date. The Chief Engineer (Buildings), Public Works Department, Madurai Region, Madurai, is also directed to furnish details and steps taken in preparing feasibility reports, in respect of other Districts, under his control, on the next hearing date.

Post the matter on 20.07.2015, immediately after motion cases."

7. We have passed a judicial order, directing the respondents to take steps immediately. Therefore, after scrutiny of the proposals, Secretary, P.W.D., Chennai, is directed to forward the proposals for providing ramp and lifts, for the first and second floors of District Court Complex, Madurai, as expeditiously as possible, but, not latter than two weeks, from today, to the Secretary, Home Prohibition, Home Department, who in turn, is directed to have consultation with the Finance Department and get sanction of the sum sought for, within three weeks. Registrar General, High Court, Madras, is hereby directed to take up the matter expeditiously and inform the Secretary, Home, if any change in the proposals is required."

3. On this day, when the matter came up for hearing, Mr.S.S. Sundar, learned counsel appearing for the respondents 1 and 2 submitted that the directions of this Court have been placed before the Hon"ble Judges of the Building Committee and after approval from My Lord The Hon"ble Chief Justice, High Court, Madras, proposals have been sent to the Government on 23.07.2015 itself. On instructions, he further submitted that there is no change in the proposal (plan and estimate) submitted by the Public Works Department, through the learned Principal District Judge, Madurai. The Chief Engineer (Buildings) PWD, Madurai Region, Madurai, has submitted the feasibility report on 08.07.2015. High Court, Madras, has sent the proposals on 23.07.2015 itself, stating that there is no change. What is pleaded before us is only a routine procedure to be followed by the Government of Tamil Nadu, while sanctioning the amount for construction of buildings, and other requirements.

4. Mr.C.Selvaraj, learned Special Government Pleader submitted that appropriate orders would be issued by the Government, after going through the procedure, within two months from the date of receipt of a copy of this order.

5. Considering the statutory duties to be performed by the Government in providing lifts / ramps in the light of Section 46 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995, which

states that

"Non-discrimination in the built environment. "-The appropriate Governments and the local authorities shall, within the limits of their economic capacity and development, provide for-

(a) ramps in public buildings;

(b) adaptation of toilets for wheel chair users;

(c) braille symbols and auditory signals in elevators or lifts;

(d) ramps in hospitals, primary health centres and other medical care and rehabilitation institutions."

and the delay of four years in not taking appropriate action on the request of the High Court, Madras and considering the difficulties of the differently abled persons and the litigants, we are not inclined to accept the submission of the learned Special Government Pleader insofar as the outer time limit is concerned. When statutes mandate the authorities to provide lifts and ramps to the differently abled persons, we are of the view that there should not be any delay. High Court, Madras, has acted promptly and that therefore it is sincerely hoped that the Secretaries to the Government, dealing with the subject matter, would also respond positively. Sanctioning of a sum of Rs. 1,31,90,650/-, rough estimate for construction of lifts / ramp in the combined District Court Buildings, Madurai District, Madurai, cannot be said to be beyond the economic capacity of the Government. Needless to state that any further delay in processing the proposals would only escalate the cost.

6. Though the Secretary to Government, Finance Department, Government of Tamil Nadu, is not a party / respondent to this Writ Petition, as the process of finalizing the proposals and sanctioning of funds involve consideration by him, in exercise of powers under Article 226 of the Constitution of India, we deem it fit to suo motu implead him, as a party / respondent No. 7 in this writ petition. Accordingly, the Secretary to Government, Finance Department, Government of Tamil Nadu, is impleaded as respondent No. 7.

7. In the light of the statutory provisions and the discussion made above, we direct the Secretaries to the Government, Home, Finance and Public Works Department, to process the proposals for construction of lifts / ramps in the combined Court buildings at Madurai Court, forthwith, after obtaining necessary orders from the Hon"ble Minister and the Hon"ble Chief Minister, Government of Tamil Nadu, issue appropriate sanction orders for the estimate submitted by the Chief Engineer (Buildings), Public Works Department, Madurai.

8. We wish to remind the Government that earlier, we had accepted the submission of the Chief Engineer, P.W.D. Madurai District, that there was a delay in providing lifts and ramps, in the combined District Court building, Madurai District.

9. Inasmuch as we have issued a positive direction to sanction the amount, we make it clear that the Secretaries to the Government, Home, Finance and PWD, respectively, to respond positively, keeping in mind the objectives of the statute, compassion and empathy required to be shown to the differently abled persons, we sincerely hope that appropriate orders would be obtained from the concerned for administrative sanction and release of funds, within one month from the date of receipt of a copy of this order.

10. Insofar as the deficiencies recorded in our earlier order, dated 23.07.2015, we reiterate that the Registrar General, Madras High Court, may look into the same and rectify the defects, if any.

11. Registry is directed to send the copy of this order to the concerned, for prompt action.