

(2004) 12 MAD CK 0031

In the Madras High Court

Case No : Writ Petition No. 36423 of 2004 and W.P.M.P. No. 43733 of 2004

T. Saravanan, Proprietor, Rathna Sanitary Consultancy

APPELLANT

Vs

Chennai Metropolitan Water Supply and Sewerage Board

RESPONDENT

Date of Decision : 10-12-2004

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2004) 12 MAD CK 0031

Hon'ble Judges : A. Kulasekaran, J

Bench : Single Bench

Advocate : Balan Haridoss, for the Appellant; V.N. Mohanraj, for the Respondent

Final Decision : Dismissed

Judgement

A. Kulasekaran, J.—The petitioner has filed the above writ petition praying to issue a writ of mandamus to direct the respondent to receive

the applications filed by the petitioner on behalf of his clients/customers for effecting water and sewerage connection without insisting upon the

production of Completion Certificate from the Chennai Metropolitan Development Authority/Corporation of Chennai.

2. Heard learned counsel appearing for the petitioner and Mr. V.N. Mohanraj, learned counsel appearing for the respondent.

3. The petitioner is the Secretary of Licenced Plumber Association, Metro-water, Chennai, engaged in construction/plumbing works, laying

drainage lines, cleaning of bathrooms, rain water harvesting etc., in Chennai city; that by a resolution dated 25-11-1996, the respondent/Board

sought to discontinue the practice of engaging the licenced plumber, which was challenged by the petitioner by filing WP No. 17980 of 1996,

however the said writ petition was dismissed by this Court; that the respondent/

Board issued a circular on 10-12-2003 stating that at the time of applying for water and sewerage connection, planning permission for development along with completion certificate be produced; that the petitioner has approached this Court challenging the said circular by filing WP No. 33728 of 2004, which was dismissed on 29-11-2004 holding that the petitioner has no locus standi to question the same; that this Honourable Court, in batch of cases, directed the respondent herein to entertain the application for water and sewerage connection filed by the individual owners without insisting completion certificate; whereas, if the application submitted by the petitioner association on behalf of their clients are not entertained, besides that it affect their business and prayed this Court to allow the writ petition as prayed for.

4. The learned counsel appearing for the respondent/ Board submitted that as per the provisions of Section 45 and 56 of The Chennai Metropolitan Water Supply and Sewerage Act, 1978, owners alone are eligible to apply for water and sewerage connection and the petitioner association has no locus standi to question the circular issued by the respondent or seek the relief of Mandamus and prayed for dismissal of the writ petition.

5. Section 45 and 56 of The Chennai Metropolitan Water Supply and Sewerage Act, 1978 runs as follows:-

45. Water connections for domestic consumption and use - (1) The authorised authority shall, on the application by the owner or occupier of any building or premises, arrange to supply water thereto for domestic consumption and use if-

(a)...

(b)the building or premises is within thirty meters of a main of the Board from which water can be supplied; and

.... deleted.

56. Sewer connections.- (1) The authorised authority shall, on the application of the owner or occupier of any premises or the owner of a private

street, arrange for the applicant's house sewer or other sewer in the private street to empty into a sewer of the Board if....

(a)...

(b)there is a sewer of the Board within thirty meters of the nearest point from such premises or property

.... deleted.

6. The petitioner is an association of persons registered or unregistered can file a writ petition under Article 226 of the Constitution of India for

enforcement of the rights of its members as distinguished from the enforcement of it's own rights, however the cause of action and persons

aggrieved are necessary. What is called locus standi. Locus standi means the right to an action to appear and be heard on the question before any

Court.

7. In the decision rendered in Umesh Chand Vinod Kumar and Others Vs. Krishi Utpadan Mandi Samiti and Another, , wherein a full bench of the

Allahabad High Court held in para-20 as follows:-

20. To summarise, the position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for

enforcement of the rights of its members as distinguished from the enforcement of its own rights-

(1) In case members of such an association are themselves unable to approach the Court by reason of poverty, disability or socially or

economically disadvantaged position "little Indians"

(2) In case of a public injury leading to public interest litigation provided the association has some concern deeper than that of a way-farer or a

busybody i.e., it has a special interest in the subject matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order

passed by the court in such proceedings will be binding on the members.

8. The basis of entitlement to judicial redress is personal injury to property, body, mind or reputation arising from violation, actual or threatened, of

the legal right or legally protected interest of the person seeking such redress. Under this Rule, the Court was concerned with the question whether

the applicant was a person aggrieved. According to this Rule, it was only a person who suffered a specific legal injury by reason of actual or

threatened violation his legal right or legally protected interest who could bring an action for a regular writ petition. Of course, it is not necessary in

public interest litigation. Followed S.P. Gupta and Ors. v. President of India and Ors. AIR 1982 SC 151.

9. In this case, the circular was issued by the respondent/Board in respect of sanctioning of water and sewer connection imposing certain

conditions on the owner or occupier of the building, who seeks connection. The insistence of completion certificate by the respondent is being dealt

with separately in the cases filed by the owners; whereas the members of the petitioner association said to have doing the business of plumbing,

laying pipeline etc., and the circular issued by the respondent no way affect the respondent.

10. The petitioner has no locus standi to file the above writ petition since it is not an affected party at all. On that ground, the writ petition is

dismissed. No costs. Consequently, connected WPMP is closed.