

W.P.(MD) No.3996 of 2025

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.06.2025

CORAM:

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

W.P.(MD) No.3996 of 2025
and
W.M.P.(MD) No.2882 of 2025

V.Balakrishnan

... Petitioner

-VS-

1.The General Manager (T)
National Highways
Authority of India
Tamil Nadu Division
G5 & G6 Sector-10
Dwarka, New Delhi-110 075

2.The General Manager (CO)
National Highways
Authority of India
Tamil Nadu Division
G5 & G6 Sector 10
Dwarka, New Delhi-110 075



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3.The Regional Officer
National Highways
Authority of India
2nd and 3rd Floors
Vijayakrishna Plaza
Melur Main Road
Mattuthavani
Madurai-625 107

4.The Project Director
National Highways
Authority of India
Tuticorin-Tirunelveli NH138
Thattaparai Vilaskku
Puthukkottai PO
Thoothukudi-628 103

5.The Director
Madurai-Tuticorin Expressway Ltd.,
Madhucon House
Plot No.1129/A
Road No.36, Jubilee Hills
Hitech City Road
Hyderabad-500 033

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of mandamus to direct the respondents 1 to 4 to take necessary action against the fifth respondent officials to mismanage the allocating funds for plant the saplings in Madurai-Tuticorin National Highways-NH-38 based on the Termination Agreement dated 20.06.2022, issued by the first respondent and further to plant road side trees on both sides and median on Madurai-



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Tuticorin National Highways-NH-38 based on the petitioner's representation dated 29.10.2024.

For Petitioner : Mr.S.Vanchinathan
For Respondents : Mr.B.Naveen Kumar
for Mr.Su.Srinivasan
Standing Counsel for NHA for R1 to R4
Ms.Lakshmi Gopinathan
for Mr.C.Sasikumar for R5

ORDER

[Order of the Court was made by S.M.SUBRAMANIAM, J.]

This writ petition has been filed for issuance of a writ of mandamus directing the respondents 1 to 4 to take necessary action against the fifth respondent officials for mismanagement in allocating funds for planting saplings in Madurai-Tuticorin National Highways-NH-38 based on the Termination Agreement dated 20.06.2022, issued by the first respondent and further to plant road side trees on both sides and median on Madurai-Tuticorin National Highways-NH-38 based on the petitioner's representation dated 29.10.2024.



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2. Learned counsel for the petitioner contended that the contract between the National Highways Authority of India and the fifth respondent for maintaining the Madurai-Tuticorin National Highways came to be terminated on 17.03.2023 on the finding that the fifth respondent failed to maintain the highway as per the standards prescribed by the National Highways Authority of India.

3. Learned counsel for the petitioner drew the attention of this Court with regard to the letter sent from the Regional Officer, National Highways Authority of India, Madurai to the fifth respondent, dated 18.01.2022. Paragraph No.16 of the said letter is extracted hereunder:

“16.Whereas, Concessionaire has flouted its maintenance obligations as stipulated under Clause 18.1 of the Concession Agreement. The maintenance work of highways is being neglected, which has been brought to the notice of the Concessionaire by NHAI/IE through various communications, clearly stating that the highway has become unworthy for travelling. Not only travelling on the Project Highway has become inconvenient, the public using the highway is facing grave risk of life and property while travelling on the Project Highway solely due to the acts and omissions of



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the Concessionaire. The attention of the Concessionaire has been drawn to the above matter time and again, however, in continuation of its complete disregard to its obligations under the Concession Agreement, the Concessionaire has failed to take any remedial actions. And due to such continued failure of the Concessionaire, the Authority was exposed to severe criticism by the road users, the State Administration and the Authorities.”

4. Relating to the above findings of the National Highways Authority of India, the petitioner would contend that the National Highways Authority of India cannot collect toll fee from the road users till such time the highway is maintained as per the standards prescribed under the National Highways Authority of India Act, 1988 and the Rules and Schemes framed thereunder.

5. Admittedly, the Madurai – Tuticorin National Highways remains in a bad condition and the said fact is not disputed by the National Highways Authority of India. However, no action was taken to maintain the highway properly. When the contract was terminated by the National Highways



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Authority of India on the ground that the fifth respondent failed to maintain the highway properly, then the National Highways Authority of India cannot collect toll fee from the road users without maintaining the highway properly.

6. Learned counsel for the petitioner would contend that even now toll fee is being collected by the National Highways Authority of India from the road users, who are travelling from Madurai to Tuticorin or from Tuticorin to Madurai.

7. Learned Standing Counsel appearing for the National Highways Authority of India would rely on the counter affidavit and state that the relief sought for in the present writ petition is contractual in nature pertaining to the performance and alleged breaches under the concession agreement dated 24.07.2006 entered into between the National Highways Authority of India and the fifth respondent and the petitioner herein has no privity of contract and the arbitration proceedings between the parties is pending and therefore, the present writ petition is not maintainable.

8. The above reasons assigned by the National Highways



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Authority of India is untenable in view of the fact that the petitioner is a road user and he is paying toll fee whenever he travels from Madurai – Tuticorin or from Tuticorin to Madurai despite the fact that the said highway road is not being maintained as per the standards prescribed under the National Highways Authority of India Act, 1988. Secondly, pendency of arbitration proceedings is not a ground to reject the writ petition, since the National Highways Authority of India is under obligation to maintain the highways properly and thereafter, collect toll fee from the road users. Instead, they are maintaining the highway road in a bad condition. Therefore, collection of toll fee in Madurai – Tuticorin National Highways is impermissible and the road users are entitled for a good conditioned National Highways and then alone they are liable to pay toll fee as prescribed by the authority concerned. Insofar as the dispute between the National Highways Authority of India and the fifth respondent is concerned, it relates to the contractual obligation and it has to be resolved either through the arbitration proceedings or in the manner known to law.

9. In view of the above factum, the respondents 1 to 4 are directed not to collect toll fee from the citizens / road users, who are travelling from



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Madurai to Tuticorin or from Tuticorin to Madurai till such time, the highways road is relaid or maintained as per the standards prescribed under the National Highways Authority of India Act, 1988. However, it is made clear that after the highway road is maintained in a good condition as per the standards prescribed under the said Act, the National Highways Authority of India is at liberty to collect toll fee from the road users.

10. With the above directions, this writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

11. Post the matter for reporting compliance on 18.06.2025.

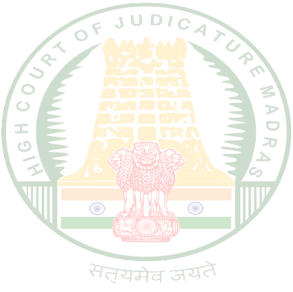
[S.M.S., J.]

[A.D.M.C., J.]

03.06.2025

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

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