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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.06.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

W.P No.18751 of 2023
and W.M.P No.17999 of 2023

P.Rangaraj

Petitioner

vs.

- 1.The Director,
Panchayat Raj and Rural Development Department,
Panagal Maligai,
Saidapet, Chennai – 600 015.
- 2.The District Collector,
Coimbatore District,
Coimbatore.
- 3.The Assistant Director (Panchayat/Auditor)
Panchayat Raj and Rural Development Department,
Coimbatore,
Coimbatore District.
- 4.The Tahsildar,
Coimbatore North Taluk,
Coimbatore District.
- 5.The Block Development Officer,
Periyanaickenpalayam Panchayat Union,
Coimbatore, SKRU Post,
Coimbatore – 641 020.

Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.2574/2021/A3 dated 12.05.2023 served on the petitioner on 14.06.2023 and the consequential proceedings of the 4th respondent in Na.Ka.No.6484/2022/Aa1 dated 15.06.2023 served on the petitioner on 19.06.2023 and quash the same as illegal and ultravires.

For Petitioners : Mr.R.Singaravelan
Senior Counsel for
Mr.R.Jayaprakash

For Respondents : Mr.J.Ravindran
Additional Advocate General

assist by
Mrs.S.Mythreye Chandru
Special Government Pleader
for R1 to R4

Mr.G.Krishna Raja
Additional Government Pleader for R5

ORDER

Mr.J.Ravindran, learned Additional Advocate General takes notice on behalf of the respondents 1 to 4.

2.Mr.G.Krishna Raja, learned Additional Government Pleader, takes notice on behalf of the 5th respondent.



3.The subject matter of challenge in this writ petition pertains to the proceedings of the 2nd respondent dated 12.05.2023, wherein, the 2nd respondent has directed the Tahsildar viz., 4th respondent to convene the meeting under Section 205(3) of the Tamil Nadu Panchayat Act, 1994 (hereinafter referred to as “the Act”) for consideration of the notice and the explanation given by the petitioner wherein, there is a proposal for the removal of the petitioner who is the President of the Somaiyapalayam Panchayat. The petitioner has also challenged the consequential proceedings of the 4th respondent dated 15.06.2023, which is the notice issued to the members of the panchayat calling for the meeting to deal with the proposal for the removal of the petitioner.

4.Heard Mr.R.Singaravelan, learned Senior counsel appearing on behalf of the petitioner, Mr.J.Ravindran, learned Additional Advocate General appearing on behalf of the respondents 1 to 4 and Mr.G.Krishna Raja, learned Additional Government Pleader appearing on behalf of the 5th respondent.

5.The main ground that was raised by the learned Senior Counsel appearing on behalf of the petitioner is that the 2nd respondent through the impugned proceedings dated 12.05.2023 has directed the Tahsildar to convene the meeting without even assigning any reasons as to why he was not satisfied



with the explanation given by the petitioner. The learned Senior Counsel submitted that the petitioner had submitted his explanation along with all the relevant documents and if the 2nd respondent was not satisfied with the same, the petitioner should have been called for an enquiry and the petitioner would have explained his defense for the charges framed against him and as to how it is not sustainable.

6.The learned Senior Counsel further submitted that the 2nd respondent has come to a conclusion that the charges against the petitioner has been proved which is evident from the impugned proceedings dated 12.05.2023. It was therefore contended that the final opinion that has to be arrived at by the District Collector under Section 205 (11) of the Act has been reached even at the stage of Section 205(2) of the Act.

7.The other ground that was urged by the learned Senior Counsel appearing on behalf of the petitioner is that the entire scheme of the Act does not provide for an opportunity for the petitioner to explain on the charges framed against him and Section 205 (8-A) prevents even a debate in the meeting and consequently, the petitioner has to face an adverse decision at the end without there being any opportunity for the petitioner to put forth his



defence except the initial explanation given by the petitioner to the Collector along with the relevant documents.

8.The learned Senior Counsel also questioned the impugned notice issued by the 4th respondent calling for the meeting on the ground that there is no indication that the members have been given the charges framed against the petitioner, explanation given by the petitioner along with the relevant documents and the opinion that was arrived at by the Collector before directing the Tahsildar to convene the meeting.

9.Per contra, the learned Additional Advocate General appearing on behalf of the respondents submitted that the proceedings of the 2nd respondent is perfectly in line with Section 205(2) of the Act. That apart, the proceedings of the 4th respondent calling for the meeting is also perfectly in line with Section 205(3). The learned Additional Advocate General submitted that the petitioner has been provided with an opportunity to give his explanation along with all the supporting documents. On going through the same, the 2nd respondent was not satisfied with the explanation and therefore, the 2nd respondent had directed the 4th respondent to convene the meeting of the members. It was contended that Section 205(2) does not contemplate any



detailed order to be passed by the Collector while arriving at his opinion and it is enough if the Collector had applied his mind on the charges framed and the explanation given. It was further contended that the Collector cannot give any detailed opinion at such a preliminary stage and the Collector can only take into consideration the *prima facie* materials. The real application of mind on the part of the Collector to come to a final conclusion is only reached at the stage Section 205 (11) of the Act. While undertaking that exercise, the Collector has been given the power to reach one decision or the other and it is at that point of time, the Collector is expected to assign his reasons, since the act preferred by the Collector under Section 205 is quasi judicial in nature. The learned Additional Advocate General therefore contended that the impugned proceedings does not suffer from any illegality and it is perfectly in line with the provisions of the Panchayat Act and that the petitioner has to necessarily await for the final decision to be taken by the members in the meeting. The learned Additional Advocate General submitted that in spite of the opinion expressed by the Collector, the members may decide to take a different view and therefore, the petitioner cannot jump to any conclusion at this point of time. Accordingly, the learned Additional Advocate sought for the dismissal of this writ petition.



10.The facts leading to the filing of the present writ petition is sufficiently dealt with in the earlier order that was passed by this Court in W.P.No.11429 of 2023. This Court interfered with the proceedings of the 4th respondent who had issued notice to the members for convening a meeting. Such interference was made by this Court on the ground that the Collector without forming any opinion on the explanation given by the petitioner, had straight away directed the Tahsildar to convene the meeting. This Court therefore found that there is a clear infraction of Section 205(2) of the Act which mandates the Collector to record his opinion before directing the Tahsildar to convene a meeting. Accordingly, this Court disposed of the writ petition directing the Collector who is the Inspector of Panchayat to strictly follow the procedure under Section 205(2) of the Act.

11.Pursuant to the above order, the Collector has issued proceedings dated 12.05.2023. The opinion that was expressed by the Collector and the direction given to the Tahsildar to convene the meeting, as found in the proceedings dated 12.05.2023 is extracted hereunder:

ஊராட்சிகளின் ஆய்வாளர்/மாவட்ட ஆட்சித்தலைவர்
என்ற முறையில் சோமையாம்பாளையம் ஊராட்சி
மன்றத்தலைவர் திரு.பி.ரங்கராஜ் என்பவர் மீது தமிழ்நாடு
ஊராட்சிகள் சட்டம் 1994-ம் ஆண்டு சட்டப்பிரிவு 205-ன் கீழ்
ஏற்படுத்தப்பட்ட குற்றச்சாட்டுகளுக்கு தனியரால்



அளிக்கப்பட் விளக்கம் ஏற்புடையதாக இல்லை மற்றும் அனைத்து குற்றச்சாட்டுகளும் நிரூபணமாகிறது. மேலும் நேரடி விசாரணையிலும் தனியரது விளக்கம் ஏற்புடையதாக இல்லாத காரணத்தினால், தமிழ்நாடு ஊராட்சிகள் சட்டம் 1994-ம் ஆண்டு பிரிவு 205 உட்பிரிவு (2)ன்படி மேல் நடவடிக்கை தொடரப்படும் என சோமையம்பாளையம் ஊராட்சி மன்ற தலைவர் திரு.பி.ரங்கராஜ் என்பவருக்கு இதன் மூலம் தெரிவிக்கப்படுகிறது.

12.The 4th respondent pursuant to the directions given by the District Collector, has issued notice to the members for convening a meeting through proceedings dated 15.06.2023 and the relevant portion is extracted hereunder:

சோமையம்பாளையம் ஊராட்சி திரு.பெ.ரங்கராஜ் ஊராட்சி மன்ற தலைவர் மீது ஏற்படுத்தப்பட்ட குற்றச்சாட்டுகள் நிரூபணமானதால் தமிழ்நாடு ஊராட்சிகள் சட்டம் 1994 சட்டப்பிரிவு 205(2)-ன் படி கருத்துக்கேட்பு கூட்டம் நடத்தி விரிவான அறிக்கையினை அனுப்பி வைக்க பார்வை 12இல் காண் கடிதத்தின்படி கோரப்பட்டுள்ளதன் தொடர் நடவடிக்கையாக 26.06.2023 அன்று மாலை 3.00 மணியளவில் சோமையம்பாளையம் ஊராட்சி மன்ற அலுவலகத்தில் கோயம்புத்தூர் வடக்கு வட்டாசியர் தலைமையில் நடைபெற உள்ள கூட்டத்தில் சோமையம்பாளையம் ஊராட்சி மன்ற தலைவர் உட்பட அனைத்து உறுப்பினர்களும் தவறாது கலந்து கொள்ளுமாறு இதன் மூலம் தெரிவிக்கப்படுகின்றது.



the District Collector who is the Inspector of Panchayat is only expected to come to a *prima facie* conclusion while recording his opinion. There is nothing inherent under Section 205(2) to direct the Collector to pass any detailed order for coming to an opinion that he is not satisfied with the explanation given by the President. It must be borne in mind that the Collector has to merely consider the explanation received from the President along with the relevant materials, if any and record his opinion. The Collector may either drop further action, if he is satisfied or if he is not satisfied with the explanation, can record his opinion that he is not satisfied with the explanation and thereafter, can direct the Tahsildar to proceed further by issuing notice to the members for convening a meeting for consideration of the proposal for the removal of the President.

14. The District Collector, who is the Inspector of Panchayats while expressing his opinion, is not expected to come to any final conclusion on the charges framed against the President. He has to merely state that he is not satisfied with the explanation and thereafter, place the matter before the members by directing the Tahsildar to convene a meeting. It is thereafter for the members to consider the materials before them and record their views during the meeting as contemplated under Section 205(10) of the Act. The decision that is arrived at by the members is expected to be independent and it must be



only based on the materials that are placed before them. The members are not bound by the opinion/satisfaction that was arrived at by the Collector under Section 205(2) and they can always express their independent view based on the materials placed before them. For this to happen, the Tahsildar is expected to place all the materials viz., the charges framed against the President, the explanation given by the President along with the materials and the opinion of the Collector and the members are expected to go through the same and express their view.

15. After the members express their view under Section 205(10) of the Act, the Tahsildar has to forward the same to the District Collector who is the Inspector of Panchayat. Then comes the most crucial part played by the District Collector under Section 205(11) of the Act.

16. Section 205(11) of the Act was put to challenge before this Court and it was referred to the Full Bench in *The District Collector and Inspector of District Panchayat Villupuram District & Others Versus Devi Parasuraman & Others* reported in **2009 4 CTC 609** and the provision was upheld. Whiles, the Full Bench had gone into the scope of 205(11) and it was held that the Inspector of Panchayat has to evaluate the entire materials including the views



expressed by the members of the panchayat and the final order should contain reasons which actually prompted the Inspector of Panchayat to take a decision one way or the other. The Full Bench also reiterated the concern that was expressed by the Apex Court to the effect that the elected members cannot be removed from public office very casually, since it will shake the confidence of the common man in the very system and the local self-Government will lose its significance.

17.The matter once again came up before the Division Bench of this Court assailing the constitutional validity of Section 205 (11) of the Act. The Division Bench took note of the judgment of the Full Bench and reiterated the position of law. In view of the same, Section 205(11) continues to hold the field and the scope of Section 205(11) has been spoken both by the Full Bench as well as the Division Bench of this Court.

18.The actual role of the District Collector who is the Inspector of Panchayat comes to the forefront only at the stage under Section 205(11) of the Act. That is the stage where the Inspector of Panchayat is expected to pass a reasoned order while taking a decision one way or the other. That stage is yet to reach in this case and it will happen only after the meeting is convened and the



members express their views.

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19.The opportunity that is given to a Panchayat President under the scheme of the Act is more in the nature of giving an explanation for the charges along with all the materials. Unfortunately, by virtue of Section 205(8-A) of the Act, there can be no debate in any meeting. Therefore, the Panchayat President against whom the proceedings are initiated will not be able to really speak about his stand regarding the charges framed against him and what is actually considered by the members during the meeting is the explanation that is given by the Panchayat President along with the supporting materials. This provision has not been put to challenge till now and hence, with the available frame work under Section 205 of the Act, there is no scope for a Panchayat President to personally put-forth his case in the meeting.

20.There is yet another stage where the Panchayat President will get an opportunity. That is the stage where the members of the panchayat vote against the removal of the President and that is sought to be reversed by the District Collector who is the Inspector of Panchayat under Section 205(11) of the Act. At that point of time, the will of the members of the Council is sought to be reversed by the District Collector and hence, it definitely requires an



opportunity to be given to the Panchayat President before any adverse order is passed while not accepting the views of the members of the panchayat. Accordingly, this is the extent up to which a Panchayat President gets an opportunity with the present scheme of Section 205 of the Act.

21. This Court has already held that a District Collector is not expected to pass a detailed order for coming to an opinion that the explanation given by the Panchayat President is not satisfactory. The reason as to why the District Collector should not express his mind in that manner while passing an order is that it will have an impact on the views expressed by the members even though, the members are expected to independently give their views. Hence, the opinion that has been expressed by the 2nd respondent in the impugned proceedings dated 12.05.2023, satisfies the requirement under Section 205(2) of the Act. However, there is a surplusage in the language that has been used by the District Collector. The relevant portion has been extracted *supra*. The District Collector apart from stating that he is not satisfied with the explanation also goes on to say that all the charges have been proved against the petitioner. However, opinion of this nature cannot be expressed by the District Collector at the stage of Section 205(2) of the Act. As a result of this opinion recorded by the District Collector, the Tahsildar while issuing a notice to the members



through proceedings dated 15.06.2023 has once again reiterated the same in the notice as if the charges against the petitioner has been proved and the same has been informed to the members.

22.As already held by this Court, the members are not bound by the opinion of the District Collector and they are expected to independently assign their view under Section 205(10) of the Act. Therefore, even though the District Collector had expressed an opinion in the impugned proceedings dated 12.05.2023 as if the charges have been proved, the same is really not binding on the members while they take their views and express it at the stage of 205(10) of the Act.

23.In the considered view of this Court, just because the District Collector had added to his opinion that the charges have been proved, that by itself cannot be a ground for this Court to interfere with the impugned proceedings dated 12.05.2023. As already stated, the members will not be bound by such an opinion and they will take an independent view based on the materials placed before them.

24.The 4th respondent through proceedings dated 15.06.2023 has



convened a meeting on 26.06.2023. The 4th respondent is expected to send along with the notice the charges framed against the petitioner, the explanation given by the petitioner along with the relevant documents and the opinion arrived at by the District Collector. At the risk of repetition, this Court holds that the opinion of the District Collector as if the charges have been proved is not binding on the members and the only opinion that will be placed before the members in the meeting is that the District Collector was not satisfied with the explanation given by the petitioner. Based on the same, it is left open to the members to take a decision. If the 4th respondent viz., the Tahsildar has not supplied the necessary materials along with the notice issued to the members, it is left open to the Tahsildar to withdraw the impugned notice dated 15.06.2023 and issue a fresh notice by convening a fresh meeting after supplying all the materials indicated *supra* to the members. The notice period as contemplated under Section 205 of the Act shall be fulfilled, if a fresh meeting is going to be called for. This observation is made by this Court to ensure that the meeting convened on 26.06.2023 does not get vitiated due to non-supply of the materials along with the notice dated 15.06.2023 issued to the member for convening the meeting on 26.06.2023.

25. The proceedings as it stands today is not liable to be interfered by this



Court at this stage. If at a future point of time, the petitioner finds any infraction of the mandatory provision under Section 205 of the Act, it will always be open to the petitioner to question the same in the manner known to law.

26. This writ petition is disposed of in the above terms. No Costs.

Consequently, connected miscellaneous petition is closed.

23.06.2023

Index : Yes
Internet : Yes
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes
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To

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Saidapet, Chennai – 600 015.

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