



W.P(MD)No.2695 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.06.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD)No.2695 of 2023

and

W.M.P.(MD)No.7922 of 2023

K.Priya

... Petitioner

Vs.

1.The District Collector,
/The Inspector of Panchayats,
Pudukottai.

2.The Tahsildar,
O/o. Tahsildar,
Kandharvakottai Taluk,
Pudukottai District.

3.The Block Development Officer (Village Panchayats),
Kandharvakottai Panchayat Union,
Pudukottai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.3579/2022/A3(U), dated 03.10.2022 on the file of the respondent no.1 and quash the same as illegal and consequently directing the respondent no.1 permit the petitioner to sign the cheques of Old Kandharvakottai village Panchayat.



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For Petitioner : Mr.M.Mahaboob Fazil
For M/s.Lajapathi Roy and Associates

For Respondents 1 and 2 : Mr.B.Saravanan,
Additional Government Pleader

For 3rd Respondent : Mr.S.Shanmugavel,
Additional Government Pleader

ORDER

This writ petition has been filed in the nature of Ceritorified Mandamus seeking records relating to an order dated 03.10.2022 in Na.Ka.No. 3579/2022/A3(U) on the file of the first respondent, District Collector/Inspector of Panchayat, Pudukkottai and to interfere with the same and consequently, direct the petitioner herein, K.Priya who is the Vice President of Old Kandharvakottai Village Panchayat Union at Pudukkottai District to sign the cheques.

2.In the affidavit filed in support of the writ petition, the petitioner has stated that she has been elected as a member of Old Kandharvakottai Village Panchayat in Pudukkottai District and thereafter, she has been selected as Vice President of the said Panchayat. She is entitled to sign the Panchayat cheques as one of the signatories along with the President of the Panchayat Union. This is provided under Section 188(3) of the Tamil Nadu Panchayat Act, 1994. The



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President of the Panchayat Union was one Rani Murugesan, who is not impleaded as a respondent in the writ petition.

3.A perusal of the affidavit reveals that the petitioner herein/Vice President and the said Rani Murugesan/President appear to have fundamental differences of opinion on each and every issue. A perusal of the records provided by the respondents reveals that the cheques for disbursement of salary to the Class IV employees could not be done. Consequent to that, there was no meeting even to sign those cheques.

4.On complaining that the President did not conduct meeting for ward members and claiming that the husband of the President was interfering with the acts of Panchayat and actually, was acting as the Panchayat President and was misappropriating the funds of Panchayat, the petitioner herein had given a complaint and also in her own affidavit stated that she has refused to sign the cheques presented by the husband of the petitioner as the President. It is stated that she had given a representation on 02.02.2022 to the first respondent/District Collector. Thereafter, the Panchayat President had passed a resolution on 22.08.2022, giving the cheque signing power to the fifth ward



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member, S.Mallika. Complaining that this has violated her authority and that her power to sign the cheques has been unlawfully taken away by the first respondent, the writ petition has been filed seeking interference in that particular order.

5.In the grounds in the writ petition, reliance was placed on two judgments of this Court, one by the Hon'ble Division Bench reported in **2005 1 law weekly 506** in the case of ***Pugazhendran, President from Brammapuram Village Panchayat, Katpadi Panchayat Union, Katpadi Taluk, Vellore District v. B.G.Balu and others*** and second is ***M.Ganapathy v. The District Collector cum Inspector of Police, Panchayat, Kumaravel.M. And another*** reported in **2009 Writ Law Reporter 700**.

6.In both the aforementioned judgments, reliance had been placed on the dictum laid down that the District Collector/Inspector of Panchayats should independently apply his mind and come to a conclusion whether the resolution passed withdrawing cheque signing power should be affirmed by him or not. In fact, it has been stated that the District Collector should not be a rubber stamp to a resolution already passed by the Panchayat, but should cause independent



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enquiry and thereafter, come to a conclusion.

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7. When the writ petition came up for hearing, my learned Predecessor on 09.02.2023, had observed as follows:

“Notice of motion returnable by eight weeks. Private notice is also permitted.

2. The specific stand of the petitioner is that the procedure set out by the Hon'ble First Bench in Pugazhendran V. B.G.Balu ((2005) 1 LW 506) was not followed in this case.

3. I went through the contents of the impugned order. There is nothing on record to show that the petitioner was specifically put on notice before withdrawing her cheque signing power by the District Collector. The violation of principles of natural justice is apparent.”

8. To vacate the interim stay, the Block Development Officer who is the third respondent in the writ petition, has filed W.M.P.(MD)No.7922 of 2023. In the affidavit filed in support of the said petition, it has been stated that the petitioner herein had earlier filed W.P.(MD)No.23628 of 2022 seeking a Mandamus directing the first respondent, District Collector to take action against the respondents 5 and 6 therein, for misusing the power of the petitioner



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to sign on cheques. It was stated that the writ petition was dismissed by an order dated 28.11.2022. It has been further stated that reasonable opportunity had been granted to the petitioner giving her seven days time by a letter dated 14.09.2022, in which, the allegations of non co-operation of the petitioner were clearly stated and the petitioner was granted an opportunity to reply to the said show cause. It has been further stated that consequent to non co-operation of the petitioner, the entire administration of the Panchayat had come to a standstill. Therefore, the impugned order was passed by the first respondent. It had also stated that the stay already granted should be vacated by this Court and that the Panchayat should be permitted to function by cheques being signed by two authorized individuals, namely, by the President and by the fifth ward member who had been so nominated by a valid resolution of the Panchayat.

9.The learned counsel for the petitioner in his arguments, quite apart from stating the ground of non application of mind by the petitioner herein, also pointed out that notice had not been served on the petitioner before the exercise of power by the first respondent, District Collector to direct withdrawal of the cheque signing power of the petitioner herein. The learned counsel further stated that Section 203 of the Village Panchayat Act, 1994, under which the said order was passed does not give that particular authority to the District



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Collector to withdraw the cheque signing power of the petitioner herein. It is also complained that a cursory reading of the impugned order would show that the District Collector had not applied his mind independently to the facts of the case prior to the passing of the impugned order. It was also stated that there has been no resolution of the Panchayat members and that the order has been passed only on the basis of the recommendation made by the Block Development Officer and that the recommendation has been blindly followed by the District Collector.

10.The learned counsel insisted that the District Collector has no power to issue such an order under Section 203 of the Act and also stated that the order suffers owing to the fact that there is no independent application of mind by the District Collector. Placing all these reasons, the learned counsel stated that the writ petition should be allowed and that the petitioner should be permitted to be one of the signatories to the cheques of the Panchayat.

11.The learned Additional Advocate General appearing on behalf of the respondents, however, denied all these facts. It is the contention of the learned Additional Advocate General that the first issue relating to non-issuance of



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notice is not correct and in that regard, records have been produced. It reflects that on 11.07.2022, notice had been issued to the petitioner herein asking her to reply and show cause as to why the cheque signing power should not be taken away from her. Various allegations have been raised in that notice. The learned Additional Advocate General, therefore, stated that since opportunity has been granted, it cannot be stated that the order was passed without granting any opportunity. It has been further pointed out that the order of interim stay was granted primarily only on the ground that prior opportunity was not given to the petitioner herein. With respect to the issue of non-application of the mind by the first respondent/District Collector, learned Additional Advocate General stated that reports from the Deputy Block Development Officer and from the Zonal Deputy Block Development Officer had been received who had conducted enquiry and on the basis of the records, the first respondent had examined those records and had affirmed the findings. It had been stated that necessary requirement has been complied with by the District Collector while passing the said order. With respect to the authority under Section 203 of the Act, it has been contended by the learned Additional Advocate General that it has to be read in conjunction with Section 205 of the Act and stated that this is not a case where the Vice President had been removed from the office. But it was a case where the cheque signing power alone had been taken away for a temporary



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period. This order has been justified by stating that the entire activities of the Panchayat have come to a standstill and there were expenditures to be incurred, cheques had to be signed and non co-operation of the petitioner in refusing to sign the cheques has necessitated the order to be passed. The learned Additional Advocate General, therefore, supported the order and prayed that the order should not be interfered with by this Court.

12.The learned counsel for the petitioner also relied on a judgment passed by this Court in the case of ***Pugazhendran, President from Brammapuram Village Panchayat, Katpadi Panchayat Union, Katpadi Taluk, Vellore District v. B.G.Balu and others*** reported in 2005-1-l.w. 506, wherein it was stated as follows:

“30. In paragraph-4 of the petitioner's affidavit it has been specifically alleged that no notice was given by the District Collector before passing the impugned order, and this allegation has not been denied by the Collector in his counter affidavit. In our opinion, the District Collector's order dated 7.11.2002 has civil consequences, and hence it was incumbent on him to give a show cause notice to the petitioner before passing it, which was not done. Hence, in our opinion, there was violation of the principles of natural justice, and the impugned order becomes illegal.



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31. The District Collector, Vellore should have given a show cause notice and an opportunity of hearing to the Vice President (which need not have been a personal hearing as already stated above), and after considering the explanation and other materials submitted by the Vice President, he should have applied his mind independently and in a fair and impartial manner, and should have recorded his own reasons in the order he passed. Since that does not appear to have been done in the order of the District Collector, Vellore dated 07.11.2002, in our opinion, the said order was rightly quashed. The matter is remanded to the District Collector, Vellore to pass a fresh order after giving an opportunity of hearing to the Vice President and President of the Panchayat, and others concerned, and after recording his reasons. This should be done very expeditiously by the District Collector, Vellore.”

13.The learned counsel for the petitioner also relied on a judgment passed by this Court in the case of ***T.Kumaravelu v. The Chief Executive Officer and others*** reported in ***2004-3-L.w. 171***, wherein it was stated as follows:

“14. A careful reading of Section 188(3) would go to show that the power of the village panchayat to pass appropriate resolution, authorising the President and another ward member of the panchayat to sign the cheques, would be resorted to only where the vice-president was absent, but not in a case where the



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vice-president omits or refuses to discharge his duties, as in the instant case. In which event, such omission or refusal to carry out the obligation to sign the cheques, would only attract Section 206 of the Act, warranting even an extreme consequence of removal of the vice-president but it cannot be interfered with lightly through a resolution by majority, which would otherwise be a violation of the very spirit and object of the legislation. Once such an omission and refusal to sign the cheque by the vicepresident is brought to the notice of the Inspector of Panchayats, he is empowered under the statute to seek an explanation from the vicepresident and to proceed in accordance with law. If the explanation is genuine and bonafide, namely that the vice-president refuses to sign the cheque only to protect the interest of the village panchayat fund the Inspector of panchayats may drop further action; on the other hand, if the explanation is not satisfactory, the Inspector of Panchayats can take further action for removal of the vice president as contemplated under Section 206 of the Act, in which event the Inspector of Panchayats, by resorting to the emergency power contemplated under Section 203 of the Act, can give appropriate permission to the village panchayat to proceed further in the matter, taking note of the situation and general condition warranted, and to exercise a general control by the panchayat over the affairs of the panchayat in order to maintain normal administration of the day to day affairs of the panchayat.

15. The recommendations of the committee constituted for rationalisation of the village panchayat accounts, which was



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accepted in G.O.Ms.No.92, Rural Development (C.III) Department, dated 26.3.1997, is also in tune with the principles laid down in Section 206 of the Act. Even though the said Government Order empowers the panchayat to authorise the president and another ward member, such a resolution could be passed only with the prior approval of the Inspector of Panchayats, obtained in this regard, as provided in the government order dated 26 .3.1997, which means that no resolution could be passed without the prior approval of the Inspector of Panchayats. Hence, the statute contemplates that if the vice-president refuses to sign the cheque for the operation of the village panchayat fund, it is obligatory on the part of the president to seek the prior approval or permission from the Inspector of Panchayats to proceed with the matter. In such event, the Inspector, either exercising the powers conferred under Section 206 of the Act, seek an explanation from the vice-president as to the refusal to sign the cheques, or alternately exercise the emergency powers vested on him under Section 203 of the Act referred to above, and pass appropriate directions as temporary arrangement, in order to maintain the day to day affairs of the panchayat. But, in no case the president can pass any resolution without the prior approval of the Inspector of Panchayats. Reading Sections 188(3), 203 and 206 of the Act harmoniously, makes it clear that once prior approval or permission to take action against the Vice President, who refuses to sign the cheque, is sought for, a duty is cast on the Inspector of Panchayats to seek an explanation from the vice-president and



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pass appropriate orders. Therefore, the Inspector of Panchayats, before proceeding further on the allegation of refusal to sign the cheque against the vice-president, has to read the procedure contemplated under Section 20 6(1) of the Act, into the procedure provided under Section 188(3), before giving effect to any such resolution. Pending such action, the Inspector of Panchayats is at liberty to invoke emergency powers conferred Section 203 of the Act.”

14.The learned counsel for the petitioner also relied on a judgment passed by this Court in the case of ***Logeswari v. The District Collector and others*** reported in **2013 (2) CTC 846**, wherein it was stated as follows:

“21. The Collectors are very often exercising this power to take away the cheque signing powers of the President and Vice President. The power to sign cheque is a statutory power conferred on the President and Vice President under Sub-Section (3) of Section 188 of the Act. The President and the Vice President are under the general control of the village panchayat. The statutory power given to the President of the Panchayat or Vice President cannot be taken away by the Inspector of Panchayat, by exercising the emergency powers. Since the cheque signing facility is given by the statute, there should be a specific power conferred upon the Inspector of Panchayats to take away such power. So long as there are no specific provisions to take away the cheque signing power of the



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President or Vice President, the Collector cannot invoke incidental or emergent powers to divest the elected representatives of their statutory right.

23. The President is an elected representative of the people of the village. The Constitution and the Panchayat Act wanted to give financial powers to the local body and it was only for the said purpose, the legislature has vested the executive authority on the Panchayat. The Legislature has given the cheque signing power to the President and Vice President. The cheques have to be signed jointly by the President and Vice President and in the absence of the President or Vice President, as the case may be, by another member authorized by the village panchayat. Such a power cannot be taken away by the District Collector lightly by invoking the emergency powers.

25. The law is, therefore, clear that the District Collector has no power under Section 203 of the Panchayat Act to take away the cheque signing power of the President and the Vice President.”

15.The ratio laid in the aforementioned judgments was answered by learned Additional Advocate General who stated that in the instant case, notice has been issued, time has been granted to give explanation and explanation was not issued and thereafter, an enquiry report was obtained and only then, following the procedure as laid down under the Act, the impugned order was



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passed withdrawing the cheque signing power of the petitioner herein.

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16.I have given careful consideration to the arguments advanced and perused the relevant records.

17.The petitioner herein had been elected as the ward member of Old Kandharvakottai Panchayat Union at Pudukkottai District. She had then the privilege of being elected as Vice President of the said Panchayat. Even before advertng to facts of the case, it must be stated that having being elected, it required her to devote her time to repay the trust placed on her by those who had voted for her not only as a ward member and thereafter, the ward members had sat down and elected her as Vice President. There are certain duties, which she had to perform. One of the primary duty which a Vice President has to perform is to have the privilege of signing as joint signatory in all the cheques which are issued by the Panchayat along with the President. Unfortunately, the petitioner appears to have grievances with the President and also with the husband of the President. For good measure, it is stated that the petitioner herein has to her support her own brother. Thus, a situation had emanated where neither the President nor the President acted in cohesion with each other, but



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rather have taken a decision to find faults and mistakes with the other person's performance rather than taking upon themselves to discharge the duty which were to be discharged by them.

18. There is a very strange averment in the affidavit filed in support of the writ petition that the husband of the President was misappropriating the Panchayat funds. Misappropriation can occur only when cheques are issued. Cheques could have been issued only when the petitioner could have signed those cheques as a joint signatory. The petitioner should not have signed those cheques. There is a further averment that the husband of the President coerced the petitioner to sign the cheques. If on coercion, she were to sign cheques for disbursing public money, then she does not deserve to be Vice President. She should have taken a firm stand on all these aspects, particularly, issues relating to the budget, accounts and money. There is no further responsibility thrust on her. The first and only responsibility thrust on her is that she should ensure that cheques are issued only for proper purposes and for the expenses which are incurred for the Panchayat. The procedure is that the President and Vice President will have to sign each and every cheque jointly. If one of them does not sign a cheque, then that particular expenditure cannot be incurred. If it is an unlawful expenditure, then the petitioner herein is well within her powers not to



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refuse to sign cheques. But a reading of the impugned order shows that cheques relating to disbursement of salary to Class IV employees were also not signed by the petitioner herein.

19.As a matter of fact, it had also been stated in the affidavit that the petitioner had refused to sign cheques. Once there is a refusal for whatever cause, then on that one ground itself, I hold that she should be removed as the cheque signing authority and that the power should be divorced from her. There cannot be a refusal to discharge an official duty by a public servant. There must be an inclination to perform public duty. If there is an exercise of external influence while discharging the public duty, the petitioner could very well have approached the District Collector and given a representation in this regard. If she feels that she is not capable of doing that and refuses to discharge public duty, then without further enquiry, the authority to sign the cheque can be removed and should be removed. There are provisions in the Act, which give emergency powers to the Inspector of Panchayats to act when there is refusal to sign the cheques.



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20. In this connection, let me extract Sections 188, 203 and 205 of the

Act.

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188. Village Panchayat Fund.-¹[(1)] The receipts which shall be credited to the Village Panchayat Fund shall include-

[(a) the house-tax and any other tax or any cess or fees levied under sections 171 and 172;]

³*[(b) the profession tax levied by Village Panchayats under Chapter IX-A;]*

*(c)⁴[***]*

[(d) the proportionate share of the proceeds of the local cess, local cess surcharge, surcharge on the duty on transfers of property and entertainment tax received by the Village Panchayat under Sections 169 and 175-A;]

*(e)⁶[***]*

(f) the taxes and tolls levied in the village under Sections 117 and 118 of the Tamil Nadu Public Health Act, 1939 (Tamil Nadu Act VIII of 1939);

(g) fees levied in public markets classified as Village Panchayat markets after deducting the contributions, if any, paid by the Village Panchayat to the Panchayat Union Council on the scale fixed by the Government;



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(h) the contribution paid to the Village Panchayat by Panchayat Union Councils in respect of markets classified as Panchayat Union markets;

(i) fees for the temporary occupation of village sites, roads and other similar public places or parts thereof in the Panchayat Village ;

(j) fees levied by the Village Panchayat in pursuance of any provisions of this Act or any rule or order made thereunder;

(k) income from endowments and trusts under the management of the Village Panchayat;

(l) the net assessment on service inams which are resumed by the Government;

*(m) ⁷[***]*

(n) income derived from Panchayat Village fisheries;

(o) income derived from ferries under the management of the Village Panchayat;

(p) unclaimed deposits and other forfeitures;

(q) a sum equivalent to the seigniorage fees collected by the Government every year from persons permitted to quarry for road materials in the Panchayat Village :

(r) all income derived from porambokes the user of which is vested in the Village Panchayat;



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(s) where the Panchayat Village is in a ryotwari tract, all income derived from trees standing on porambokes although the user of the porambokes is not vested in the Village Panchayat;

(t) income from leases of Government property obtained by the Village Panchayat;

(u) fines and penalties levied under this Act by the Village Panchayat or at the instance or on behalf of the Village Panchayat;

(v) all sums other than those enumerated above which arise out of, or are received in aid of or for expenditure on any institutions or services maintained or financed from the Village Panchayat fund or managed by the Village Panchayat;

⁸[(w) such other moneys as may be specified by the Government.]

⁹[(2) Notwithstanding anything contained in sub-section (1), the Government may direct any Village Panchayat to constitute separate funds to which shall be credited such receipt as may be specified and such funds shall be applied and disposed of in such manner as may be prescribed.

(3) Subject to such general control as the Village Panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund 10[***] shall be signed jointly by the President and Vice President and in the absence of the President or Vice President, as the case may be, by the Vice President or the



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President and another member authorised by the Village Panchayat at a meeting in this behalf.]”

“203. *Emergency powers of Collector and Inspector.-*

Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a Panchayat or Executive Authority or Commissioner or [Secretary] is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the safety of the public and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union (General) Fund or the District Panchayat (General) Fund in priority to any other charges against such Fund except charges for the service of authorised loans.

“205. *Removal of President.-* (1) *The Inspector-*

(a) of his own motion, or

(b) on a representation in writing signed by not less than two-thirds of the sanctioned strength of the Village Panchayat containing a statement of charges against the President and presented in person to the Inspector by any two of the members of the Village Panchayat,

is satisfied that the President willfully omits or refuses to carry out or disobeys any provision of this Act, or any Rule, bye-law, Regulation or lawful order made or issued under this Act or abuses any power vested in him, the Inspector shall, by notice in



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writing, require the President to offer within a specified date, his explanation with respect to this acts of omission or commission mentioned in the notice.

(2) If the explanation is received within the specified date and the Inspector considers that the explanation is satisfactory, he may drop further action with respect to the notice. If no explanation is received within the specified date or if the explanation received is in his opinion not satisfactory, he shall forward to the Tahsildar of the taluk a copy of the notice referred to in sub-section (1) and the explanation of the President if received within the specified date with a proposal for the removal of the President for ascertaining the views of the Village Panchayat.

(3) The Tahsildar shall then convene a meeting for the consideration of the notice and the explanation, if any and the proposal for the removal of the President, at the office of the Village Panchayat at a time appointed by the Tahsildar.

(4) A copy of the notice of the meeting shall be caused to be delivered to the President and to all the members of the Village Panchayat by the Tahsildar atleast seven days before the date of the meeting.

(5) The Tahsildar shall preside at the meeting convened under this section and no other person shall preside thereat. If, within half an hour appointed for the meeting, the Tahsildar is not present to preside at the meeting, the meeting shall stand



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adjourned to a time to be appointed and notified to the members and the President by the Tahsildar under sub-section (6).

(6) If the Tahsildar is unable to preside at the meeting, he may, after recording his reasons in writing, adjourn the meeting to such other time as he may appoint. The date so appointed shall be not later than thirty days from the date so appointed for the meeting under sub-section (3). Notice of not less than seven clear days shall be given to the members and the President of the time appointed for the adjourned meeting.

(7) Save as provided in sub-sections (5) and (6), a meeting convened for the purpose of considering the notice and the explanation, if any and the proposal for the removal of the President under this section shall not for any reason, be adjourned.

(8) As soon as the meeting convened under this section is commenced, the Tahsildar, shall read to the Village Panchayat the notice of the Inspector and the explanation if any, of the President¹ [and the proposal for the removal of the President], for the consideration of which it has been convened.

[(8-A) There shall be no debate in any meeting under this section].

(9) The Tahsildar shall not speak on the merits of the notice or explanation nor shall be entitled to vote at the meeting.

(10) The views of the Village Panchayat shall be duly recorded in the minutes of the meeting and a copy of the minutes



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shall forthwith on the termination of the meeting be forwarded by the Tahsildar to the Inspector.

(11) The Inspector may, after considering the views of the Village Panchayat in this regard, in his discretion either remove the President from office by notification with effect from a date to be specified therein or drop further action.

(12) The Government shall have power to cancel any notification issued under sub-section (11) and may, pending a decision on such cancellation, postpone the date specified in such notification.

[(13) Any person in respect of whom a notification has been issued under sub-section (11) removing from the office of President shall, unless the notification is cancelled under sub-section (12), be ineligible for election as President until the expiry of three years from the date specified in such notification as postponed by the order, if any, issued under sub-section (12)].”

21.All these provisions will have to be read in conjunction with each other. In all these provisions, the authority is given to the Inspector of Panchayats who is Collector of the particular District to act in an emergency situation.



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22.I really wonder at the wisdom of legislature who must have already predicted that there would always be instances when the President and the Vice President could be in loggerheads with each other and one of them would refuse to sign cheques, particularly, cheques which are meant for public purpose and for the benefit of Panchayat. It is under those circumstances that the Inspector of Panchayats has been vested with emergency powers to step in to regulate the functioning of the Panchayat. The manner in which such functioning would be regulated is to authorise another individual to sign in the place of the person who refuses to sign the cheque. The petitioner herein having refused to sign the cheques cannot today complain when that power had been divorced from her and handed over by a resolution to the fifth respondent herein. Without going into a detailed examination of the facts, this preliminary observation will have to be laid by this Court.

23.Now when the facts are examined, it is apparent that on 11.07.2022, a notice has been issued to the petitioner herein. In that particular notice, it had been very specifically stated that seven days time is granted to the petitioner to reply to the notice. The petitioner had not replied to the said notice. Thereafter, it is seen from the records that enquiry was also made by the Block Development Officer on 30.07.2022 and the same had been placed before the



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District Collector.

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24.The impugned order will now have to be examined to determine whether there is application of mind by the District Collector. The relevant portion of the impugned order is as follows:

“தற்போது ஊராட்சியில் காசோலையில் ஊராட்சி மன்றத் தலைவர் மற்றும் துணைத்தலைவர் கையொப்பம் இடுதல் (Joint Signature) நடைமுறையில் உள்ள நிலையில் தமிழ்நாடு ஊராட்சிகள் சட்டம் 1994, பிரிவு 203-இல் படி மாவட்ட ஆட்சியர்/ஊராட்சியின் ஆய்வாளருக்கு வழங்கப்பட்டுள்ள அவசரகால அதிகாரத்தின் அடிப்படையில் பழைய கந்தர்வகோட்டை கிராம ஊராட்சி மன்றத் துணைத்தலைவர் திருமதி.கே.பிரியா துணைத்தலைவராகவே தொடரவும், பழைய கந்தர்வகோட்டை கிராம ஊராட்சி நிர்வாகம் தொய்வின்றி செயல்படவும், கிராம ஊராட்சியில் பராமரிக்கப்பட்டுவரும் அனைத்து மத்திய மற்றும் மாநில அரசு திட்ட கணக்குகள் தொடர்பான காசோலைகள் மற்றும் PPA ஆவணங்களில் இரண்டாம் கையொப்பமிடும் அதிகாரத்தை பழைய கந்தர்வகோட்டை ஊராட்சி மன்றத்தலைவருடன் இணைந்து மறு உத்தரவு வரும் வரை தற்காலிகமாக பழைய கந்தர்வகோட்டை ஊராட்சி 5வது. வார்டு உறுப்பினர் திருமதி.சே.மல்லிகா என்பவருக்கு அனுமதித்து இதன்வழி உத்தரவிடப்படுகிறது.

இச்செயல்முறையினைப் பெற்றுக்கொண்டமைக்கு உடன் ஒப்புதல் அளித்திட தெரிவிக்கப்படுகிறது.□



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25.The issue whether there has been independent application of mind is quite a nebulous issue. There is a report already available. The Collector peruses the report and the Collector then affirms that what is stated in that report is, to his understanding in order, and has to be acted upon. Subjective satisfaction is something which could not be determined or stated in a straight jacket formula. There could be instances where merely because the report is repeated verbatim, it could not be concluded that there has been independent application of mind. There could be also be instances where the earlier report of the Block Development Officer is written down and then, the District Collector states that having read it, he affirms the conclusion therein. This could also be application of mind. There is no particular formula in which a particular authority or a Quasi Judicial Authority should record his observations to indicate that there has been independent application of mind.

26.In the judgment referred to by the learned counsel for the petitioner, the Bench therein was of the opinion that there was no independent application of mind. This cannot be a ratio *decidendi*. It is an observation made on the facts of that particular case.



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27.The facts of this particular case have to be examined and the relevant portion has been extracted supra. It would, therefore, be evident to regulate the authority of the Panchayat cheque signing power. The procedure required is, notice to be issued, notice had been issued. Reply has to be given but reply has not been given. Thereafter, an enquiry had to be conducted. An enquiry has been conducted. That enquiry should be examined by the District Collector. The same was examined by the District Collector. The impugned order came to be passed.

28.In the impugned order, it had been stated that the measure was only for a temporary period. The impugned order was passed on 03.10.2022. Let me restrict that particular period from this day to another period of two weeks, since the petitioner has not signed the cheques continuously though there has been a stay. Therefore, from the date of this particular report, even though the period had not been given in the impugned order, till 30.06.2023, the order shall be in force and thereafter, the petitioner is permitted to sign the cheques.

29.The other statement of the learned counsel for the petitioner that in



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spite of the stay of the order, the petitioner was not permitted to sign the cheques cannot be examined by this Court in the course of this writ petition.

The petitioner can take appropriate steps to address that particular fact.

30.The relief sought in the writ petition is rejected, but a direction is given that the order shall remain in force only till 30.06.2023. Consequent to that restriction of the order, the writ petition stands disposed of. No costs. Consequently connected miscellaneous petition is closed.

15.06.2023

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

To

1.The District Collector,
/The Inspector of Panchayats,
Pudukottai.

2.The Tahsildar,
O/o. Tahsildar,
Kandharvakottai Taluk,
Pudukottai District.

3.The Block Development Officer (Village Panchayats),
Kandharvakottai Panchayat Union,



Pudukottai District.

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C.V.KARTHIKEYAN, J.

Mrn

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15.06.2023