



W.P.No.24409 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 18.10.2024

Pronounced on : 23.10.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.24409 of 2024 and
WMP.Nos.26690 & 30680 of 2024

C.Kalaiselvi

... Petitioner

Vs.

- 1.The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St.George,
Secretariat, Chennai 600 009
- 2.The District Collector/Panchayat Inspector,
District Collectorate,
Salem District
- 3.The Tahsildar,
Attur Taluk,
Salem District
- 4.The Block Development Officer,
Attur Taluk,
Salem District

... Respondents

PRAYER:

Writ Petition is filed under Article 226 of Constitution of India
praying to issue a Writ of Certiorari after calling from all the records
pertaining to the order passed by the second respondent in
Na.Ka.No.785/2023/A5 dated 15.07.2024 in proceedings GO(3pa) No.20



W.P.No.24409 of 2024

dated 15.07.2024 on the file of the first respondent and quash the same.

For Petitioner : Mr.A.K.Sriram,
Senior Counsel
for Mr.A.Rajakumar

For Respondents
For R1 to 3 : Mr.S.Arumugam,
Government Advocate

For R4 : Mr.C.Kathiravan,
Special Government Pleader

ORDER

This writ petition has been filed challenging the order passed by the first respondent dated 15.07.2024 thereby confirmed the order passed by the second respondent thereby removed the petitioner from the post of President of Paithur Panchayat, Attur Taluk, Salem District.

2. The petitioner was elected President of Paithur Panchayat. While being so, on receipt of complaint from general public, the petitioner was served with charge memo by the second respondent. On receipt of explanation from the petitioner, the second respondent without being satisfied with the same, ordered to conduct enquiry by the third respondent. The third respondent convened a meeting as contemplated



W.P.No.24409 of 2024

under Section 205 of the Tamil Nadu Panchayats Act, 1994. In the said meeting, all the 12 ward members participated, in which except two members, other 10 members did not accept the charges initiated as against the petitioner. Even then, the second respondent conducted enquiry thereby removed the petitioner from the post of President of Paithur Panchayat. Aggrieved by the same, the petitioner preferred appeal before the first respondent and the same was also dismissed.

3. *Mr.A.K.Sriram*, the learned Senior Counsel appearing for the petitioner would submit that though out of 12 ward members, 10 members did not support the allegations as against the petitioner in the meeting convened by the third respondent, the second respondent differed with the views and without giving further opportunity of hearing to the petitioner, removed her from the post of President. In fact, the petitioner sought for time to submit her explanation before the second respondent on the complaint. However, the petitioner was not given sufficient time to submit explanation and it was ordered to convene a meeting by the third respondent. The petitioner was set *exparte* before the second respondent.



W.P.No.24409 of 2024

Therefore, it is clear violation of principles of natural justice. The appellate authority also mechanically dismissed the appeal without appreciating the above facts and circumstances.

3.1 In support of his contention, the learned Senior Counsel appearing for the petitioner relied upon the judgment of this Court in the case of *The District Collector and Inspector of District Panchayat, Villupuram District and another Vs. Devi Parasuraman*¹, in which the Hon'ble Full Bench of this Court held as follows:

17. In the light of the discussions made above, we summarise our views as follows :-

i) An act of the Inspector u/s 205 is quasi-judicial in nature;

ii) If the Inspector is satisfied with the explanation submitted by the President u/s 205, he is required to record his satisfaction for dropping the proceeding; and

iii) If the Inspector differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove

¹ 2009 (4) CTC 609



W.P.No.24409 of 2024

the President, the Inspector is also required to provide further notice to the President intimating the reasons for difference and can issue notification only on consideration of cause, if any, shown by the President.

Accordingly, if the Inspector of Panchayat differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceedings against the President, the Inspector of Panchayat is not only required to record the reasons for differing with the views of the Village Panchayat but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President and opportunity stating the reasons for difference.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. On perusal of the counter filed by the fourth respondent and on hearing the submissions made by *Mr.C.Kathiravan*, the learned Special Government Pleader appearing for the fourth respondent revealed that on receipt of complaint from the general public of Paithur Panchayat, the second respondent issued notice dated 04.07.2023. The second



W.P.No.24409 of 2024

respondent framed five charges against the petitioner as follows:

குற்றச்சாட்டு எண்-1

ஆத்துர் ஊராட்சி ஒன்றியம் பைத்துர் ஊராட்சியில் கல்கரை, மண்கரை அமைக்கும் பணிகளுக்கு ஊராட்சி மன்ற தலைவர், தனது மாமனார் பெயரில் வேலைசெய்ததாகவும் மற்றும் ஆட்டுக்கொட்டகை அமைக்கும் பணிக்கு பயனாளிக்கு வழங்க வேண்டிய தொகையில் மோசடி செய்ததாகவும், பைத்துர் ஊராட்சி மன்ற தலைவர் திருமதிகலைசெல்வி, என்பவர் மீது பொதுமக்களிடம் இருந்து புகார் வரப்பெற்றதாகவும், புகார் மனு தொடர்பாக ஆத்துர் ஒன்றியத்திற்குட்பட்ட பைத்துர் ஊராட்சியில் மகாத்மா காந்தி தேசிய ஊரக வளர்ச்சி வேலை உறுதி திட்டத்தின்கீழ் நடைபெறும் பணிகளில் ஊழல் நடைபெறுவது குறித்து பொது மக்களிடமிருந்து பெறப்பட்ட புகார் மனுவின் அடிப்படையில் 03.09.2022 மற்றும் 20.09.2022 ஆகிய தேதிகளில் கள ஆய்வு மேற்கொண்டதில் பதிவேடுகள் 1 முதல் 7 வரை சரிவர பராமரிக்கப்படவில்லை எனவும், இப்பதிவேட்டில் பெரும்பாலான குடும்ப தலைவர் மற்றும் உறுப்பினர்களின் புகைப்படங்கள் ஒட்டப்படவில்லை என்றும், ஊராட்சி மன்ற தலைவர் திருமதிகலைசெல்வி என்பவரின் மாமனார் கந்தசாமி த/பெ அத்தியப்பகவுண்டர் இறந்து சுமார் பத்து ஆண்டுகள் ஆகிவிட்டது என்றும், ஆனால் இவரது பெயரில் மகாத்மா காந்தி தேசிய ஊரக வேலை உறுதி திட்டத்தில் கல்கரை, மண்கரை அமைக்கும் பணிகளுக்கு சுமார் மூன்று லட்சம் ரூபாய்க்கு மகாத்மா காந்தி தேசிய ஊரக வேலை உறுதி திட்ட நிதியில் இருந்து செலவிடப்பட்டுள்ளதாக கள ஆய்வில் கண்டறியப்பட்டதாக



W.P.No.24409 of 2024

தொரிவிக்கப்பட்டுள்ளது.

குற்றச்சாட்டு எண்-2

மேற்காணும் குற்றச்சாட்டு-1 தொடர்பாக பைத்துர் ஊராட்சி மன்ற தலைவர் திருமதிகலைச்செல்வி என்பவரை கூடுதல் ஆட்சியர் (வளர்ச்சி), மாவட்ட ஊரக வளர்ச்சி முகமை, சேலம் முன்பு 30.09.2022 மற்றும் 15.10.2022 மாலை 5.00 மணிக்கு விசாரணைக்கு ஆஜர் ஆகும்படி உத்தரவிடப்பட்டும் விசாரணைக்கு ஆஜராகமலும், அதற்கான விளக்கமும் நாளது தேதி வரை தொரிவிக்கவில்லை எனவும் குற்றம் சாட்டப்பட்டுள்ளது.

குற்றச்சாட்டு எண்-3

மகாத்மா காந்தி தேசிய ஊரக வேலை உறுதி திட்ட பணிகளை மேற்கொள்வதற்கு ஊராட்சி மன்ற தலைவர் தகுந்த ஒத்துழைப்பு வழங்காததால், ஊராட்சியின் வளர்ச்சி மற்றும் அரசு நல திட்டங்களை சரிவர செயல்படுத்த முடியாமல் நிலுவையிலேயே உள்ளது. இதனால் அரசுக்கு அவப்பெயர் ஏற்பட ஊராட்சி மன்ற தலைவர் காரணமாக உள்ளதாகவும் குற்றம் சாட்டப்பட்டுள்ளது.

குற்றச்சாட்டு எண்-4

மேலும், 01.11.2022, 07.11.2022 மற்றும் 11.11.2022 ஆகிய தேதிகளில் வேலை அட்டை புதுபித்து தர அட்டை ஒன்றுக்கு தல ரூ.1000/- கேட்பதாக பொதுமக்களிடம் இருந்து புகார் மனுபெற்றது எனவும், இப்புகார் மனு தொடர்பாக 02.11.2022 மற்றும் 21.11.2022 தேதிகளில் கள ஆய்வு மேற்கொண்டதில் வேலை அட்டை ஒன்றுக்கு ரூ.1,000/- கேட்டது உறுதி



W.P.No.24409 of 2024

செய்யப்பட்டது எனவும் தெரிவிக்கப்பட்டுள்ளது.

குற்றச்சாட்டு எண்-5

(As per the Annual Master circular entitlement 1/3.1 All the Job cards must remain in the custody of concerned house hold and possession of Hob card by any one other person including MGNREGS Functionaries, without valid reasons, will be considered as an offence punishable under Section 25 of the Act)-ன்படி வேலை அட்டைக்கு விண்ணப்பித்த நபருக்கு 15 நாட்களுக்குள் அவருக்கான வேலை அட்டையினை வழங்க வேண்டும்.

6. Simultaneously, the third respondent was also served notice with regards to the charges alleged against the petitioner. On enquiry, the fourth respondent also submitted report before the second respondent. However, the petitioner on receipt of notice from the second respondent failed to submit her explanation. On the strength of the report, the second respondent ordered to convene a meeting by the third respondent as contemplated under Section 205 of Tamil Nadu Panchayat Act. On receipt of the said direction, the third respondent issued notice to the petitioner as well as other 12 ward members to convene a meeting. After convening a meeting, the third respondent recorded the statement of all the ward members and submitted report. Accordingly, out of 12 ward



W.P.No.24409 of 2024

members, 10 of them did not accept the charges alleged as against the petitioner and two of them accepted the charges levelled against the petitioner.

7. On perusal of the said report, all the 10 ward members mechanically deposed that they do not know about the allegations. They never denied the charges levelled as against the petitioner. It shows that they conveniently deposed in order to safeguard the petitioner. Therefore, the second respondent rightly concluded that the petitioner failed to submit any explanation on the charges levelled against her and also other ward members did not explain with proper reasons to deny the charges and mechanically did not support the charges.

8. On perusal of the charges, the petitioner misappropriated huge money from Paithur Panchayat. Therefore, the second respondent removed the petitioner from the post of President of Paithur Panchayat. It is relevant to extract the provisions under Section 205 of Tamil Nadu Panchayats Act, 1994.



W.P.No.24409 of 2024

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 writing, require the President to offer within a specified date, his explanation with respect to his 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



WEB COPY



W.P.No.24409 of 2024

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 at least 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 adjourned to a time to be



W.P.No.24409 of 2024

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 President [and the proposal for the removal of the President] *[Inserted by Tamil Nadu Panchayats (Amendment) Act, 1999 (Tamil Nadu Act 2 of 1999).]*, for the consideration of which it has been



W.P.No.24409 of 2024

convened.[(8-A) There shall be no debate in any meeting under this section.] *[Sub-section 8-A was inserted by Tamil Nadu Panchayats (Amendment) Act, 1999 (Tamil Nadu Act 2 of 1999).]*

(9) The Tahsildar shall not speak on the merits of the notice or explanation nor shall he 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 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



W.P.No.24409 of 2024

WEB COPY

specified in such notification.

(13)[Any person in respect of whom a notification has been issued under sub-section (11) removing him 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).] *[Sub-section (13) substituted by Tamil Nadu Panchayats (Amendment) Act, 2007 (Tamil Nadu Act 16 of 2007) w.e.f. 8th June 2007.]*

9. Section 205(11) of Tamil Nadu Panchayats Act, 1994 says that on receipt of the views of the Village Panchayat in a meeting convened by the third respondent, the Inspector of Panchayat's discretion either remove the President from Office by notification with effect from the date to be specified therein or drop further action. Therefore, the second respondent has power of discretion to remove the President of Village Panchayat though some of the members supported the President's continuance as President of Village Panchayat. Further, the second respondent never differed from the views of Village Panchayat. On the powers vested with him under Section 205(11), the second respondent



W.P.No.24409 of 2024

can remove the President on his considered opinion that the President has to be removed from the post. If the second respondent differs from the opinion of the Village Panchayat, then the petitioner is entitled for further notice and the second respondent has to state the reasons for his difference from the opinion of the Village Panchayat. Here in the case on hand, the second respondent never differed with the views of the Village Panchayat. Therefore, the judgment cited by the learned Senior Counsel appearing for the petitioner is not applicable to the case on hand. Further, the first respondent who is being the appellate authority, rightly considered the above facts and circumstances and rightly rejected the appeal.

10. In view of the above, this Court finds no infirmity or illegality in the impugned orders passed by the first and second respondents. As such, this writ petition is devoid of merits and liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.



W.P.No.24409 of 2024

23.10.2024

WEB COPY

Neutral Citation: Yes/No
Index: Yes/No
Speaking/Non-speaking order
lok

G.K.ILANTHIRAIYAN, J.

lok

To

1. The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Fort St. George,
Secretariat, Chennai 600 009
2. The District Collector/Panchayat Inspector,
District Collectorate,
Salem District
3. The Tahsildar,
Attur Taluk,
Salem District
4. The Block Development Officer,
Attur Taluk,
Salem District



WEB COPY



W.P.No.24409 of 2024

W.P.No.24409 of 2024

23.10.2024