



W.P. Nos. 35500 of 2023 and 4128 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.02.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. Nos. 35500 of 2023 and 4128 of 2024

and

W.M.P. Nos. 35470, 35472 and 35473 of 2023 and 4438 of 2024

W.P. No. 35500 of 2023:-

U.Umarani

... Petitioner

-VS-

1. The District Collector/Inspector of Panchayat,
Dharmapuri District – 636705.
2. The Block Development Officer,
Village Panchayat,
Morappur Union,
Dharmapuri District – 635305.
3. The Zonal Deputy Block Development Officer (Unit-3),
Morappur Union,
Dharmapuri District – 635305.

4. Vinotha

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, by calling for the records in Na.Ka. No. 1553/2023/A2 dated 20.10.2023 on the file of the First Respondent and quash the same and consequently direct the First Respondent



W.P. Nos. 35500 of 2023 and 4128 of 2024

to restore cheque power of the Petitioner and further authorize the Petitioner to act as per Section 204(3) of the Tail Nadu Panchayat Act, 1994 to withdraw funds from all accounts of Morappur Panchayath, Morappur Union, Dharmapuri District to carry out all the works and also to incur necessary expenses relating to the said Panchayath.

For Petitioner : Mr. R.Karunakaran

For Respondents : Mr. P.Ganesan,
Additional Government Pleader (for R1)

Mr. K.Tamilvendan (for R2 & R3)

Mr. S.Duraisamy (for R4)

W.P. No. 4128 of 2024:-

Vinotha

... Petitioner

-vs-

1. The District Collector/Inspector of Panchayat,
Dharmapuri District,
Dharmapuri – 636705.
2. The Block Development Officer,
Village Panchayat,
Morappur Union,
Dharmapuri District – 635305.
3. The Zonal Deputy Block Development Officer (Unit-3),
Morappur Union,
Dharmapuri District – 635305.
4. U.Umarani

... Respondents



W.P. Nos. 35500 of 2023 and 4128 of 2024

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, by calling for the records relating to the order passed by the First Respondent dated 20.10.2023 in Proceedings in Na. Ka. No. 1553/2023/A2 dated 20.10.2023, quash the same insofar as the Petitioner is concerned and direct the First Respondent to restore the cheque signing power of the Petitioner.

For Petitioner : Mr. S.Duraisamy

For Respondents : Mr. P.Ganesan,
Additional Government Pleader (for R1)

Mr. S.Prabhakaran (for R2 & R3)

Mr. R.Karunakaran (for R4)

COMMON ORDER

Heard Mr. R.Karunakaran, Learned Counsel for the Petitioner in W.P. No. 35500 of 2023 and the Fourth Respondent in W.P. No. 4128 of 2024 (hereinafter referred to as 'the President' for short), Mr. S.Doraiswamy, Learned Counsel for the Petitioner in W.P. No. 4128 of 2024 and the Fourth Respondent in W.P. No. 35500 of 2023 (hereinafter referred to as 'the Vice President' for short), Mr. P.Ganesan, Learned Additional Government Pleader for the First Respondent, Mr. K.Tamilvendan, Learned Counsel for the Second and Third



W.P. Nos. 35500 of 2023 and 4128 of 2024

Respondents in W.P. No. 35500 of 2023 and Mr. S.Prabhakaran, Learned

Counsel for the Second and Third Respondents in W.P. No. 4128 of 2024 and

perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner in W.P. No. 35500 of 2023 and the Petitioner in W.P. No. 4128 of 2024 have been elected as President and Vice-President respectively of Morappur Panchayat and as per Section 188(3) of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as 'the Act' for short), and they have to jointly sign all cheques of the funds of that Panchayat. Taking note of the non co-operation between the President and Vice President in signing the cheques of the funds in the bank account of the Panchayat, the First Respondent (hereinafter referred to as 'the Inspector of Panchayat' by Proceedings in Na. Ka. No. 1856/ 2020/A1 dated 07.12.2022 had transferred those powers to the Second and Third Respondents, which was challenged by them in the Writ Petitions in W.P. Nos. 34874 of 2022 and 3425 of 2023 respectively before this Court and it was disposed by common order dated 07.02.2023 holding as follows:-

5. Today, when the matter came up before this Court, both the writ petitioners have filed individual affidavit before this Court



WEB COPY

that they will cooperate with each other. The only grievance of the Vice President is that the cheques have not been prepared with necessary supportive documents. Whereas, it is contention of the President that despite, necessary documents, cheques have not been signed. The Vice President along with some other members, is acting against the President and he is not cooperating.

6. In such view of the matter, as both of them have given an undertaking before this Court and filed an affidavit, the District Collector shall restore the power of cheque signing to the President as per the statute. It is made it clear that if any cheque being prepared and to be issued on behalf of the Panchayat, the same shall be supported by necessary documents. Even after such documents are produced, the cheque has been prepared and the Vice President does not co-operate with the President, the Collector can very well nominate any other person along with the President to exercise the power for signing the cheque. It is made clear that if any dispute cropped up between the President and Vice President, the Collector can decide the issue on its own merits and pass a final order.



W.P. Nos. 35500 of 2023 and 4128 of 2024

WEB COPY

Though the Inspector of Panchayat had restored the powers of the President and Vice President to sign the cheques of the Panchayat, as further disputes arose between them, he conducted fresh enquiry into the matter in the exercise of powers under Section 204 of the Act and passed the Order in Na. Ka. No. 1553/2023/A2 dated 20.10.2023 observing as follows:-

மொரப்பூர் ஊராட்சி மன்றத்தலைவர் மற்றும் துணைத்தலைவர் ஆகியோர் தொடர்ச்சியாக அடுத்தடுத்து காழ்ப்புணர்ச்சி காரணமாக ஒருவர்மீது ஓரவராக புகார் தெரிவித்து அனைத்து அரசு நலத்திட்ட பணிகளும் மக்களுக்கு உரிய காலத்தில் சென்று சேராமல் தடைப்பட காரணமாக இருந்ததும், ஊராட்சி மன்றத்தலைவர் மற்றும் துணைத்தலைவர் ஆகியோர் இடையே ஒற்றுமையின்மையின் காரணமாக சர்ச்சை தொடர்ந்து வருவதால் ஊராட்சியில் டெங்கு நோய் தடுப்பு பணிகள், சுகாதார துய்மை பணிகள் மேற்கொள்வதில் இடர்பாடுகள் உள்ளதும் மற்றும் தமிழ்நாடு ஊராட்சிகள் சட்டம் 1994 பிரிவு 204-ன்படி அவரவர் தன் பணிகளையும் கடமைகளையும் செய்ய தவறியதுடன் ஊராட்சி நிர்வாக நலனில் எவ்வித ஒத்துழைப்பும் நல்கவில்லை என்பதும் தெரியவருகிறது.

எனவே, மொரப்பூர் ஊராட்சி மன்ற பொதுமக்களின் நலன்கருதி ஊராட்சி மன்றத்தின் நிர்வாகத்தினை முறைப்படுத்த, தமிழ்நாடு ஊராட்சிகள் சட்டம் 1994-இன் பிரிவு 204-இன்படியும், பார்வை 9-ல் காணும் விசாரணை அலுவலர்/செயலர், முாவட்ட ஊராட்சி தருமபுரி அவர்களின் விசாரணை அறிக்கை, பார்வை 12-ல் காணும் மொரப்பூர் வட்டார வளர்ச்சி அலுவலர் (கி.ஊ)-ன் அறிக்கை மற்றும் பார்வை (2)-இல் காணும்



W.P. Nos. 35500 of 2023 and 4128 of 2024

மாண்புமிகு சென்னை உயர்நீதி மன்ற தீர்ப்புரையின்படியும், மொரப்பூர் ஊராட்சியின் நிர்வாக நலன் அனைத்து கணக்குகள் மற்றும் காசோலைகளில் மறு ஆவண பிறப்பிக்கப்படும்வரை மொரப்பூர் வட்டார வளர்ச்சி அலுவலர் (கிஊ) முதன்மை கையொப்பமிடவும் மற்றும் மண்டல துணை வட்டார வளர்ச்சி அலுவலர் தொகுதி (III) இரண்டாம் இணை கையொப்பமிடவும் தற்காலிகமாக அதிகாரம் வழங்கி இதன் மூலம் ஆணையிடப்படுகிறது.

மேலும், ஊராட்சியில் உள்ள மக்கள் பாதிப்படையாமல் இருக்க, மக்களின் இன்றியமையாத மற்றும் அடிப்படை தேவைகளுக்காக ஊராட்சியில் மேற்கொள்ளப்பட்டு முடிக்கப்பட்ட பணிகளுக்கான பட்டியல் தொகை மற்றும் இதர செலவினங்களுக்கான தொகையினை கீழ்க்கண்டவாறு அமைக்கப்படும் செலவின குழு உறுப்பினர்களால் முறையாக சரிபார்க்கப்பட்டு, குழு அங்கீகாரத்தினை பெற்ற பின்னரே தொகை விடுக்கப்படவேண்டும் எனவும் இதன் மூலம் ஆணையிடப்படுகிறது.

செலவினக் குழு

வ. எண்.	குழு உறுப்பினர்கள்
1.	உதவி இயக்குநர் (தணிக்கை), தருமபுரி
2.	உதவி இயக்குநர் (ஊராட்சிகள்), தருமபுரி
3.	வட்டார வளர்ச்சி அலுவலர் (கிஊ), தருமபுரி
4.	மண்டல துணை வட்டார வளர்ச்சி அலுவலர் (தொகுதி-3), மொரப்பூர்
5.	துணை வட்டார வளர்ச்சி அலுவலர் (தணிக்கை), மொரப்பூர்

The said order is challenged by both the President and the Vice President by separate Writ Petitions.



WEB COPY

3. Before proceeding further, reference must be made to Section 204 of the Act, which reads as follows:-

204. Power to take action in default of a Village Panchayat,

President or Executive Authority, etc. – (1) If at any time it

appears to the Inspector that a Village Panchayat, President or Executive Authority or that a Panchayat Union Council or its Chairman or Commissioner or a District Panchayat or its Chairman or Secretary, has made default in performing any duty imposed by or under this or any other Act, he may, by order in writing, fix a period for the performance of such duty.

(2) If such duty is not performed within the period so fixed, the Inspector may appoint some person to perform it and may direct that the expense of performing it shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union Fund or the District Panchayat (General) Fund as the case may be, in priority to any other charges against such Fund except charges for the service of authorised loans.



WEB COPY

(3) If on a representation in writing made by the President, the Inspector is satisfied that due to the non-co-operation of the members with the President, the Village Panchayat is not able to function, the Inspector may, by notification, authorize the President to perform, subject to the control of the Inspector, such of the duties imposed upon the Village Panchayat by law and for such period not exceeding six months as may be specified in such notification. During the period for which the President is so authorised, there shall be no meeting of the Village Panchayat.

(4) If on a representation in writing made by the Chairman, the Government are satisfied that due to the non-co-operation of the members with the Chairman, the Panchayat Union Council or the District Panchayat, as the case may be, is not able to function, the Government may, by notification, authorise the Chairman to perform, subject to the control of the Government or any officer authroised by the Government in this behalf, such of the duties imposed upon the Panchayat Union Council or the District Panchayat, as the case may be, by law and for such period not



exceeding six months as may be specified in such notification.
During the period for which the Chairman is so authorised, there shall be no meeting of the Panchayat Union Council or the District Panchayat.

At this juncture, it would also be beneficial to extract Section 188(3) of the Act below:-

188. Village Panchayat Fund.....[3] Subject to such general control as the Village Panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund shall be signed jointly by the President and as the case may be, by the Vice-President or the President and another member authorised by the Village Panchayat at a meeting in this behalf.

It would be evident from the said legal provisions that in the absence of the President or the Vice-President, one of the members of the ward, who has been authorized by the Village Panchayat, would be conferred with the power to sign the cheques. The Government of Tamil Nadu has also issued G.O. Ms. No. 92, Rural Development (C.III) Department dated 26.09.1997 in which it has been stated as follows:-



WEB COPY



W.P. Nos. 35500 of 2023 and 4128 of 2024



WEB COPY

All the accounts should be jointly operated by the President and the Vice President. In exceptional cases, when there is adversarial relationship between the President and the Vice-President, the panchayat, may, by a resolution authorize any other member other than the Vice President to jointly operate the account along with the President. Provided that prior approval of the Inspector of Panchayats (District Collector) will be obtained for this.

The Division Bench of this Court in ***Pugazhendran -vs- B.G.Balu*** [(2005) 1 CTC 545] after referring to the relevant statutory provisions, has determined the question as to where if the Vice-President (or President, as the case may be) has adversarial relationship with the President (or Vice President) of the Panchayat, and if for ulterior motive he refuses to sign the cheque, can this be treated as his 'absence'? In other words, whether the provision in G.O. Ms. No. 92 dated 26.03.1997, which states that in exceptional cases where there is adversarial relationship between the President and the Vice-President, the panchayat, may, by a resolution authorize any other member other than the Vice president (or



W.P. Nos. 35500 of 2023 and 4128 of 2024

President, as the case may be) to jointly operate the account along with the

President (or Vice-President), is inconsistent with Section 188(3) of the Act?

The Division Bench of this Court has held therein as follows:-

25. In our opinion, we can give a wider meaning to the word ‘absence’ than mere ‘physical absence’. One word can have several meanings, just as several words can have one meaning (synonyms). It all depends on the context in which it has been used. For example, the word ‘desertion’ appearing in Section 13 of the Hindu Marriage Act implies not only factum of separation, but also “animus deserendi”, vide **Lachman -vs- Meena** (AIR 1964 SC 40). There can be constructive desertion. The husband and wife may be living together under the same roof, but the husband may have legally deserted her (wife) by his conduct. Similarly the word ‘absence’ is a word of wide connotation, and is not necessarily limited to ‘physical absence’. The indifferent or obstructionist attitude of a person or avoidance can, in our opinion, amount to absence in some situations.

26. In our opinion, if the Vice-President (or President, as the case may be) by his conduct makes it impossible for the village



WEB COPY

panchayat to function (either by neglecting his duties or by causing regular obstruction in the administration or otherwise) he may be said to be 'absent'. Such interpretation of the word 'absence' in Section 188(3) would be taking a practical view otherwise the Vice-President (or President, as the case may be) if he has adversarial relationship with the Vice-President (or President as the case may be) can make it very difficult for the Village panchayat to function by his simple act of refusing to sign cheques. Funds are often required for various purposes and if the President or Vice-President refuses to sign cheques for ulterior motives, as is the allegation in the counter affidavit in this case, the functioning of the village panchayat may become impossible. We are not expressing any opinion as to whether in this case, the Vice-President has refused to sign for some ulterior motives, but we are certainly of the opinion that Section 188(3) of the Act, as well as G.O. Ms. No. 92 dated 26.03.1997 can be read harmoniously in the manner mentioned above. We do not agree with the learned single Judge that if the Vice-President (or President, as the case may be) refuses to sign it can never be a



WEB COPY

case of 'absence' within the meaning of the word in Section 188(3) of the Act, and the only recourse which can be taken to is under Section 206. It may be noted that Section 206(2) of the Act states that before removing the Vice-President the procedure mentioned in sub-sections (2) to (13) of Section 205 has to be complied with, and that procedure is a cumbersome, time consuming one. Surely for signing every cheque it would be impracticable to resort to that procedure. If the conclusion of the learned single Judge that for refusal to sign cheques action could be taken under Section 206(3) of the Act for removal of the Vice President (or President, as the case may be) the time bound programmes like Village Panchayat, ear-marked grant account like Sampoorana Grama Yojana Yojana Scheme (Food for work), Village Panchayat Scheme Fund Account, etc. will lapse if the funds are not utilized within the time stipulated, since the procedure mentioned in sub-sections (2) to (13) of Section 205 is very elaborate and cumbersome.

27. We would however point out that before granting prior



WEB COPY

approval it would be the duty of the Inspector of Panchayats (District Collector) to give a hearing to the Vice-President or (President, as the case may be) (which need not be a personal hearing as already mentioned above), and apply his mind and decide by a written order giving reasons as to whether in his opinion, the Vice-President (or President, as the case may be) is refusing to sign the cheque for ulterior motive, or for genuine reasons in the interest of the village panchayat. It will be the duty of the Inspector of Panchayats, to decide this matter objectively and impartially without being influenced by any extraneous pressures or considerations. If the refusal to sign the cheque is for good and genuine reasons in the interest of the Village Panchayat, the Inspector should refuse approval, but if it is for extraneous considerations or is mala fide he should grant it.

4. Having regard to the aforesaid dictum, which governs the controversy involved in this Writ Petition, the following position would emerge:-

- (i) if the Vice President does not intend to sign any cheque sent by the President, the reasons for the same shall be communicated in writing



W.P. Nos. 35500 of 2023 and 4128 of 2024

within a working day along with the copy to the Inspector of Panchayat;

- (ii) in the event that the President is of the view that the reasons stated by the Vice President for not signing the cheque is not acceptable, the matter shall be immediately brought to notice of the Inspector of Panchayat, who shall thereafter conduct an enquiry as to the correctness of the rival claims of the Petitioners;
- (iii) if the Inspector of Panchayat is satisfied that the objection of the Vice President is justified, no action would be required to be taken against her;
- (iv) in the event it is found that the contention of the Vice President is untenable, necessary orders shall be passed empowering the authorized member of the Village Panchayat to sign that particular cheque in her place; and
- (v) such course of action shall be followed in respect of each cheque that is not signed by the Vice President.

5. It must be highlighted here that it is only when the reasons stated by the President or the Vice President, as the case may be, for not signing the cheque is found untenable that the Inspector of Panchayat is empowered to authorize a member of the Panchayat to sign that particular cheque in the place of the



W.P. Nos. 35500 of 2023 and 4128 of 2024

President or the Vice President, who has refused to sign the particular cheque.

Moreover, it is only when no member of the Panchayat has been authorized to sign in that regard, such powers could be conferred on the Block Development Officer or the Zonal Deputy Block Development Officer, as the case may be. Consequently, when the said procedure has not been followed, it is not possible to sustain the impugned order in Na. Ka. No. 1553/ 2023/A2 dated 20.10.2023 passed by the Inspector of Panchayat, which shall stand quashed with the clarification that the Inspector of Panchayat, if such necessity arises in future, is not precluded from taking action in the aforesaid manner in accordance with law.

In the upshot, the Writ Petitions are ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

27.02.2024

Maya

Index: Yes/No

NCC : Yes/No

Note: Issue order copy by 31.05.2024.



W.P. Nos. 35500 of 2023 and 4128 of 2024

To

WEB COPY

1. The District Collector/ Inspector of Panchayat
Dharmapuri District-636705.
2. The Block Development Officer
Village Panchayats
Morappur Union
Dharmapuri District - 635305.
3. The Zonal Deputy Block Development Officer (Unit-3)
Morappur Union
Dharmapuri District - 635305.