



W.P.No.12133 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED : 28.07.2026

CORAM

THE HONOURABLE MR.JUSTICE HEMANT CHANDANGOUDAR

W.P.No.12133 of 2024

G.Nalini

W/o.A.Gurunathan

... Petitioner

vs.

The Commissioner

Thiruverkadu Municipality

Thiruverkadu, Chennai-600 077.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying a writ of Certiorari, to call for the records of the respondent pertaining to the impugned order bearing Na.Ka.No.2696/2023/H1 dated 12.03.2024 and quash the same.

For Petitioner : Mr.G.S.Mani

for Mr.Richardson Wilson

For Respondents : Mr.P.Kumaresan, Senior Counsel

for Ms.S.S.Jayanthi

ORDER

The petitioner has challenged the order dated 12.03.2024 passed by the respondent, whereby he was disqualified from holding the office of Councillor of the Thiruverkadu Municipal Corporation.

Page Nos.1/7



W.P.No.12133 of 2024

WEB COPY 2. The petitioner was duly elected as a Councillor of the Corporation.

During his tenure, the respondent issued a show cause notice alleging that the petitioner had violated Section 12(6)(a) of the Tamil Nadu Urban Local Bodies Act, 1998 (“the Act”), and called upon him to explain why he should not be disqualified. The petitioner submitted a detailed reply denying all the allegations. Not being satisfied with the explanation, the respondent conducted an enquiry. The petitioner participated in the enquiry and reiterated his denial of the allegations.

3. Thereafter, the respondent, relying on the materials available on record, concluded that the petitioner had violated Section 12(6)(a) of the Act and passed the impugned order disqualifying him from the office of Councillor.

4. Learned counsel for the petitioner submitted that, once the petitioner had denied the allegations, the respondent was required under Section 35 of the Act to refer the matter to the Principal District Judge of the



W.P.No.12133 of 2024

concerned District for determination of the question of disqualification.

Instead, the respondent conducted the enquiry on its own and passed the impugned order, which is contrary to the procedure prescribed under Section 35 of the Act. It was further submitted that the alleged resignation letter dated 11.03.2024 was received by the respondent only on 13.03.2024, i.e., after the impugned order had already been passed. Even otherwise, the resignation has not been accepted in the manner required under Section 34(2) of the Act.

5. Learned Senior Counsel appearing for the respondent submitted that the allegations against the petitioner were established by cogent evidence and that the respondent rightly passed the impugned order. It was further submitted that the petitioner had voluntarily resigned from the office of Councillor and, therefore, having resigned, he cannot now challenge the order of disqualification.

6. I have considered the submissions made by the learned counsel on both sides and perused the materials placed on record.



W.P.No.12133 of 2024

7. It is not in dispute that, in response to the show cause notice, the petitioner submitted a detailed explanation denying all the allegations relating to the alleged violation of Section 12(6)(a) of the Act.

8. Section 35 of the Act deals with the determination of questions relating to the disqualification of a Councillor or Chairperson. It provides that where it is alleged that a Councillor has incurred disqualification under Sections 12, 31 or 32 of the Act and the Councillor disputes the allegation, the matter shall be referred to the Principal District Judge of the District concerned for determination.

9. Under Section 35(2) of the Act, the Principal District Judge, after conducting such enquiry as may be necessary, has to decide whether the Councillor has incurred the alleged disqualification.

10. In the present case, since the petitioner denied the allegations, it was incumbent upon the respondent to refer the matter to the Principal District Judge for adjudication. Instead, the respondent conducted the enquiry itself



W.P.No.12133 of 2024

and passed the impugned order. Such a course is contrary to the statutory procedure prescribed under Section 35 of the Act. Therefore, the impugned order lacks statutory authority and cannot be sustained.

11. The respondent has also produced the original resignation letter dated 11.03.2024 allegedly submitted by the petitioner. However, the records show that the resignation letter was received only on 13.03.2024, whereas the impugned order of disqualification had already been passed on 12.03.2024.

12. Section 34(2) of the Act provides that a Councillor may resign by giving a written notice in person to the Chairperson. The Chairperson is required to verify the genuineness of the resignation and accept it within five days of its receipt.

13. In the present case, although the resignation letter was received on 13.03.2024, it has not been accepted in the manner prescribed under Section 34(2) of the Act. In fact, the respondent itself states that, since the petitioner had already been disqualified on 12.03.2024, clarification was sought



W.P.No.12133 of 2024

regarding the further course of action. Therefore, the alleged resignation cannot be relied upon to sustain the impugned order.

14. In view of the above, the impugned order dated 12.03.2024 is illegal and liable to be set aside.

15. Accordingly, the writ petition is allowed and the impugned order dated 12.03.2024 is set aside.

16. The petitioner shall be permitted to continue as a Councillor of the respondent Corporation for the remainder of his term. The respondent Corporation shall also extend to the petitioner all consequential benefits in accordance with law. There shall be no order as to costs.

28.07.2026

Speaking / Non-speaking order

Neutral Citation : Yes / No

Index : Yes / No

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To

The Commissioner

Thiruverkadu Municipality

Thiruverkadu, Chennai-600 077.

Page Nos. **6/7**



WEB COPY



W.P.No.12133 of 2024

HEMANT CHANDANGOUDAR, J.,

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W.P.No.12133 of 2024

28.07.2026

Page Nos.7/7