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**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**RESERVED ON : 05 / 08 / 2026**

**DELIVERED ON : 14 / 08 / 2026**

**CORAM:**

**THE HON'BLE MR. JUSTICE C.V.KARTHIKEYAN  
AND**

**THE HON'BLE MR. JUSTICE R.SAKTHIVEL**

**W.A. (MD) No.176 of 2026  
and  
C.M.P. (MD) No.1816 of 2026**

1. The Principal Secretary to Government,  
Department of Municipal Administration and Water Supply Secretariat,  
Chennai 600 009.

2. The Director of Municipal Administration,  
The Office of Directorate of Municipal Administration,  
MRC Nagar, Raja Annamalai Puram,  
Chennai 600 028.

3. The Municipal Commissioner,  
Usilampatti Municipal Council,  
Madurai 625 532.

... Appellants /  
Respondents

***Versus***

Tmt.K Sakuntala,  
W/o Kattapomman,  
No.3/10, Karuppukovil Street,  
Usilampatti, Madurai-625532.

... Respondent /  
Writ Petitioner

**PRAYER in W.A. (MD) No.176 of 2026:** Writ Appeal filed under Clause



15 of the Letters Patent, praying to set aside the Order dated January 23, 2026 passed in W.P. (MD) No.35403 of 2025 on the file of this Court.

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**PRAYER in W.M.P. (MD) No.1816 of 2026:** Civil Miscellaneous Petition filed praying to grant an Order of interim stay to the operation of the Order dated January 23, 2026 made in W.P. (MD) No.35403 of 2025 pending disposal of the above appeal.

For Appellants : Mr. M.P.Senthil  
Government Pleader

For Respondent : Mr.D.Selvam

\* \* \*

### **J U D G M E N T**

**R.SAKTHIVEL, J.**

This Writ Appeal is filed at the instance of the respondents in W.P. (MD) No.35403 of 2025, challenging the Order dated January 23, 2026 passed therein by a learned Single Judge of this Court.

2. The respondent herein, who shall hereinafter be referred to as the writ petitioner, filed the aforesaid writ petition against the appellants herein in the form of Writ of Certiorari seeking to call for the records of 'the Order dated November 7, 2025 made in G.O(N).No.375, Department of



Municipal Administration and Drinking Water Supply Na.Ni.5(2) by the first appellant herein' ['Impugned Government Order' for short] and quash the same.

3. The said Writ Petition came before a learned Single Judge, who after hearing both sides, set aside the Impugned Government Order and remitted the matter to the file of first appellant herein for passing appropriate Order in the light of the observation made by them *vide* Order dated January 23, 2026 in the Writ Petition. Dissatisfied with the said learned Single Judge's Order, the respondents in the Writ Petition have filed this Writ Appeal.

4. Facts leading to the filing of this Writ Appeal are as follows:

4.1. The writ petitioner was elected as eleventh Ward Councillor of Usilampatti Municipal Council on February 22, 2022. Later in the internal election process, the writ petitioner was elected as Chairperson of the Municipal Council on March 04, 2022.

4.2. On October 22, 2024, the first appellant had issued a show cause notice against the writ petitioner by invoking Section 52(2) of the Tamil Nadu Urban Local Bodies Act, 1998, seeking to submit her



explanation why action should not be initiated for the allegations levelled against her *qua* Chairperson. The writ petitioner submitted her explanation on November 06, 2024. Whereupon, the first appellant had called from the second appellant for para-wise remarks on the explanation offered by the writ petitioner. Upon considering the explanation offered by the writ petitioner and the para-wise remarks by second appellant thereon, the first appellant passed G.O(N).No.41, Department of Municipal Administration and Drinking Water Supply, dated March 26, 2025 removing the writ petitioner not only from the post of Chairperson of the third appellant's Municipality but also from the post of eleventh Ward Councillor.

**4.3.** The writ petitioner challenged the aforesaid removal Order passed by the first appellant in the writ petition in W.P. No.12614 of 2025, wherein the Court was pleased to point out some defects, set aside the said Order of removal and to the remit the matter to the first appellant for fresh consideration following due procedure in the absence of the defects pointed out. The primary defects pointed out were: (i) Violation of principles of natural justice as the para-wise remarks from the second appellant against the writ petitioner relied upon in passing the aforesaid removal Order were not supplied; (ii) The aforesaid removal Order suffers from the vice of being



non-speaking; (iii) There was no show cause notice issued to the writ petitioner containing against her in her capacity as Ward Councillor and hence, her removal from the post of Ward Councillor suffers from non-application of mind. In view of the defects, *vide* Order dated August 26, 2025, this Court set aside the said Order of removal dated March 26, 2025 and remitted the matter to the first appellant for fresh consideration without repeating the defects pointed out.

**4.4.** Pursuant to the said Order passed in W.P. No.12614 of 2025, the first appellant issued a fresh show cause notice dated September 2, 2025, in response to which the writ petitioner issued explanation dated September 19, 2025. Further, the writ petitioner offered further explanation and sought for an opportunity to cross-examine the Municipal Commissioner. Upon receipt of her explanation, the first appellant removed the writ petitioner from the post of Chairperson as well as Ward Councillor *vide* the Impugned Government Order.

**4.5.** The Impugned Government Order was challenged by the writ petitioner in W.P. (MD) No.35403 of 2025. A learned Single Judge, *vide* Order dated January 23, 2026, held that the defects pointed out by this Court in the earlier Writ Petition *i.e.*, in W.P. No.12614 of 2025, have not been



fully rectified and on that ground, the learned Single Judge set aside the Impugned Government Order and remitted the matter to the first appellant for afresh consideration rectifying the defects pointed out. As regards the second primary defect pointed out in the earlier Writ Petition, the learned Single Judge was of the opinion that, the Impugned Government Order extracts the explanations offered by the writ petitioner and offers reasons for dissatisfaction with the explanation and hence, it cannot be said to be a non-speaking Order this time. Nonetheless, the learned Single Judge was of the further opinion that the para-wise remarks of second appellant against the writ petitioner was again not furnished and that the Impugned Government Order suffers from non-application of mind, for the show cause notice now issued contains allegations against the writ petitioner *qua* Chairperson alone and not *qua* Ward Councillor, yet the writ petitioner was removed from both the posts, despite the specific observation of this Court in W.P. No.12614 of 2025. Accordingly, the learned Single Judge held that the first and third main defects pointed out in the earlier Writ Petition were not rectified and went on to dispose of the Writ Petition as stated *supra*.

**4.6.** Feeling aggrieved by the Order of the learned Single Judge dated January 23, 2026, the respondents therein have filed this Writ Appeal



under clause 15 of Letters Patent.

### **ARGUMENTS**

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5. Mr.M.P.Senthil, learned Government Pleader appearing for the appellants herein / respondents in the Writ Petition, would submit that the writ petitioner had committed certain irregularities, some of which are grave in nature. Pursuant to this Court's Order in the earlier Writ Petition viz., Order dated August 26, 2025, a show cause dated September 2, 2025 was issued calling for explanation as to why she shall not be removed from the post of Chairperson as well as that of Ward Councillor. After receiving the writ petitioner's explanation and considering the entire materials on record, the first appellant passed the Impugned Government Order removing the writ petitioner from the post of Chairperson as well as Ward Councillor. Further, the documents / materials sought for by the writ petitioner *vide* her letter dated September 8, 2025, were furnished by the first appellant *vide* their communication dated September 11, 2025. In short, the writ petitioner was offered the chance to be heard on why she shall not be removed from both the posts and furnished with the relevant materials and thus, the principles of natural justice were duly followed and there was no non-application of mind. Aspects pointed out as defects were duly avoided this time. The learned Single Judge failed to properly appreciate the records and



quashed the Impugned Government Order. Accordingly, he would pray to allow the Writ Appeal and set aside the learned Single Judge order and sustain the Impugned Government Order.

6. *Per contra*, Mr.D.Selvam, learned Counsel appearing for the respondent herein / writ petitioner would submit that there is no evidence available on record to say that the writ petitioner collected money from the shop owners. The temporary bus stand is put up in the land belonging to the Housing Board and not to that of the Municipality. When so, the Municipality would have no right to collect rent for any rental spaces there. Even if the Municipality can do so, it is the duty of the Municipal Commissioner to collect licence fee / rent and the Chairperson has no role in it. Further, the first appellant did not follow the principles of natural justice. Elaborating on the same, he would submit that the documents referred in the order were not produced to the writ petitioner. The learned Single Judge had also observed the same in his Order. As per Section 52(1) of the Tamil Nadu Urban Local Bodies Act, 1998, the Councillor post is vacated, automatically the chairperson post goes. Contrarily, when the Chairperson post is removed, the Councillor post shall not go automatically. There is no charge against the writ petitioner *qua* Ward Councillor. No charge memo



was given to the writ petitioner containing allegations against her in her capacity of Councillor. He further submits that the writ petitioner was duly elected by the people as Councillor and further internally elected as Chairperson to the local Government namely Municipality. The Impugned Government Order is without any materials and hence, liable to be set aside. There is no irregularity or illegality in the Order passed by the learned Single Judge. Accordingly, he would pray to dismiss the Writ Appeal. He would rely on the Judgment of Hon'ble High Court of Allahabad in ***Umesh Baijal and ors. -vs- State of U.P., and ors.*** reported in ***2003 SCC OnLine All 1560.***

### **DISCUSSION**

7. This Court has considered both sides' submissions and perused the materials available on record.

8. The allegations contained in the first show cause notice dated October 22, 2024 issued against the writ petitioner can be summed up as



follows:

**(i)** Maliciously preventing collection of rent by Usilampatti Municipality from the rental spaces / shops in the temporary bus stand, Unauthorised collection of rent therefrom and thereby causing financial loss to the Municipality to the tune of Rupees 14.40 Lakhs as on the date of show cause notice.

**(ii)** Prevention of the full-time staffs of the Municipality from collecting lease rent by causing threats along with relatives and direct collection of the rent by the writ petitioner and her relatives, and remittance of lesser amount than actual collection, thereby causing financial loss to the Municipality.

**(iii)** Conducting the Council Meetings in the writ petitioner's office room instead of the Council Meeting Hall, contrary to the venue stipulated in the notice issued therefor and contrary to the norms. Further, participation of the writ petitioner's son and relatives in the Council Meeting and their interference with the proceedings including engaging in arguments with the elected Council Members, thereby affecting the decorum and institutional dignity of the Council.



**(iv)** Arbitrary prior approval of works in most cases by the writ petitioner, in anticipation of later ratification rather than passing of resolution in the Council, leading to non-cooperation from Council Members.

**(v)** Passing Resolution for cancellation of solid waste management contract with one M/s.Ram & Co. in the Council Meeting against the advice of the third appellant - Municipal Commissioner and without following the rules.

**9.** The aforesaid show cause notice was issued under Section 52(2) of the Tamil Nadu Urban Local Bodies Act, 1998, raising the above allegations and calling for explanation as to why the writ petitioner shall not be removed from the post of Chairperson (alone).

**10.** The writ petitioner offered her written explanation on November 06, 2024 denying all the allegations levelled against her. Her



explanations can be summed up as hereunder:

**(i)** As regards the allegation summed up in Paragraph No.8 (i) hereinabove, the writ petitioner explained that the temporary bus stand is in the Housing Board's property and not the Municipality's property. The writ petitioner had raised concerns before the Municipal Commissioner about the unauthorised occupation of the rental spaces / shops in the temporary bus stand. The Municipal Commissioner did not take any action nor collected any rent, on the other hand, they colluded with the shop owners. If at all any loss was caused, it was due to inaction on the part of the Commissioner and the writ petitioner can in no way be blamed for the same.

**(ii)** As regards the allegation summed up in Paragraph No.8 (ii) hereinabove, it was explained that no specific details were mentioned as to who, when, where and how the alleged threats were caused. Nor is there any material for alleged direct collection of rent and remittance of lesser rent. It was further explained that the allegation that her son and relatives participated in Council Meeting is based on the false news in 'Malai Malar' Newspaper dated July 7, 2023. Actually, on July 7, 2023, there was a Advisory Meeting to which the writ petitioner's son being the office bearer



of the District Literary Wing of a political party was invited along with some important persons by the Municipal Commissioner. Hence, the writ petitioner's son was present. It is not right to assert that her son or any other connected to the writ petitioner unauthorisedly participated in the Council Meeting.

**(iii)** As regards the allegation summed up in Paragraph No.8 (iii) hereinabove, the Council Meeting Hall was in a dilapidated condition unfit for use and a resolution has been passed with regard to its renovation, and the same has also been taken to the notice of the Municipal Commissioner. Hence, the meetings were conducted in the writ petitioner's chamber, with utmost care and hardship to prevent the issue from being publicised in order to maintain the dignity of the Council.

**(iv)** As regards the allegation summed up in Paragraph No.8 (iv) hereinabove, no prior permission was granted without the consent of the Municipal Commissioner. All the works were ordered only after signed approval from the Municipal Commissioner.

**(v)** As regards the allegation summed up in Paragraph No.8 (v)



hereinabove, as majority of the Council brought in a signed representation for cancellation of the contract with M/s.Ram & Co. which was eventually passed as an resolution. However, the Municipal Commissioner did not accept the same till date. Though the contract period came to end on June 30, 2024, at the instance of the Municipal Commissioner, the contract period was extended for a further period of three months, detrimental to public interest, as M/s.Ram & Co. was related to the Minister of the concerned Department.

**11.** Upon receiving the explanation, the first appellant sought for para-wise remarks thereon from the second appellant and this Court does not deem it fit to sum up or extract the same. Upon consideration of the explanation and para-wise remarks, the first appellant removed the writ petitioner from the post of both, Chairperson and Ward Councillor, *vide* their Order dated March 26, 2025. Then the matter came to this Court in form of a Writ Petition. The trajectory of the matter from there, to the subsequent Writ Petition and to this Writ Appeal has already been set out *supra* in Paragraph Nos.4.3 to 4.6 with the sufficient amount of details and hence, they need not be repeated here.



**12.** This Court shall first examine whether the three main defects pointed out in the earlier Writ Petition in W.P. No.12614 of 2025 were cured. As regards the defect of non-application of mind, it is true that the post of Chairperson being held by virtue of being a Ward Councillor elected internally thereto, removal from the post of Ward Councillor would automatically mean removal from the post of Chairperson, but this does not go *vice versa*. At the same time, owing to the proximity and connected nature between both the posts, in appropriate cases considering the nature and gravity of charges proved, even if the charges proved relate only to the post of Chairperson, the Chairperson may be removed from both posts, *i.e.*, from the post of Chairperson as well as that of Ward Councillor. For instance, when a serious charge of misappropriation of funds is proved against a Chairperson, then they may be unfit to hold not only the post of Chairperson but that of Ward Councillor as well. Both the posts are in the nature of public service and such grave charges may render them unfit for such public service, provided there exist material to prove the charges to the satisfaction of the Government. It is up to the Government to make the call. Whether or not such a decision is a correct and justifiable one is a different question; the Government's decision may later be challenged and decided on



merits. The point is that the Government has the power to do so in appropriate cases.

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**12.1.** The point that now arises is whether the present case is an appropriate case for issuance of show cause notice with regard to removal from both posts and whether the pursuant removal from both posts *vide* Impugned Government Order is justifiable. The learned Single Judge in W.P. (MD) No.35403 of 2025, over which the present Writ Appeal has been filed, was of the opinion that the allegations contained in the show cause dated September 02, 2025 issued pursuant to the Order dated August 26, 2025 in the earlier Writ Petition in W.P. No.12614 of 2025, relate only to the post of Chairperson and not to that of Ward Councillor and hence, it shows non-application of mind.

**12.2.** The allegations contained in the earlier show cause notice, which have been summed up *supra*, and those contained in the subsequent show case notice dated September 02, 2025, are essentially one and the same. The only main difference to be noted is that the earlier one was issued calling for explanation as to why the writ petitioner shall not be removed from the post of Chairperson alone while the subsequent one has been



issued with respect to removal from both the Chairperson post and the Ward Councillor post. Having perused the allegations, this Court is of the opinion that the subsequent show cause notice was rightly issued with regard to removal from both posts. This is because, the allegations contained are serious and grave in nature. It involves allegations of financial loss to the Municipality to the tune of Rupees 14.40 Lakhs, fiscal misappropriation, arbitrary sanction of work without prior consent of the Council Members, etc. These allegations against the writ petitioner in her capacity as the Chairperson, owing to their serious and grave nature, may account for potential removal from the post of Ward Councillor as well. Hence, this Court does not find any defect with the subsequent show cause notice issued in pursuance of the Order in earlier Writ Petition.

**12.3.** However, it is to be noted that, this itself does not validate removal from both the posts, as allegations are mere allegations until established. Mere allegations without any materials in support thereof cannot be said to be established and cannot be a ground for removal from a public post. In this case, Section 52 of the Tamil Nadu Urban Local Bodies Act, 1998 stipulates that if Government 'in their opinion' finds that the Councillor, Deputy Chairperson or the Chairperson, acting in derogation of



the Tamil Nadu Urban Local Bodies Act, 1998, they may remove them from such post. For ease of appreciation, this Court deems fit to extract said

Section 52 hereunder:

***"52. Government to remove Councillor or Deputy Chairperson or Chairperson.-***

*(1) The Government may, by notification, remove any councillor, Deputy Chairperson or Chairperson, who in their opinion, wilfully omits or refuses to carry out or disobeys the provisions of this Act or any rules, bye-laws, regulations or lawful orders issued there under or abuses the powers vested in him.*

*(2) The Government shall, when they propose to take action under sub- section (1), give the councillor, Deputy Chairperson or Chairperson concerned an opportunity for explanation, and the notification issued under the said sub-section shall contain a statement of the reasons of the Government for the action taken.*

*(3) Any person removed under sub-section (1) from the office of councillor, Deputy Chairperson or Chairperson shall not be eligible for election to the said office until the date on which notice of the next ordinary elections to the municipal council is published*



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*in the prescribed manner, or the expiry of one year from the date specified in such notification, whichever is later."*

**13.** The Impugned Government Order does not disclose any material evidence based on which the Government formed such an opinion contemplated under the said Section 52. The opinion contemplated thereunder must be a rational and reasoned opinion based on evidence / materials and cannot be formed based on mere unsubstantiated allegations, surmise and conjectures in an arbitrary manner. Mere ground that the explanations offered to the allegations are not satisfactory, is not sufficient to establish the allegations. Second appellant's para-wise remarks on the explanation offered by the writ petitioner itself, without sufficient materials to support the same, cannot be a basis to remove the writ petitioner from her posts, especially when the writ petitioner is a people's representative; she was one elected by the people as the eleventh Ward Councillor and further internally elected by the people's representatives / elected Ward Councillors as the Chairperson. The Impugned Government Order was passed removing the writ petitioner from both the posts, namely Chairperson and Ward Councillor, without disclosing any material evidence in support of the allegations against her, hence, this Court is of the view that the Impugned



Government Order suffers non-application of mind.

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**14.** For the very same reason that the Impugned Government Order does not disclose any material evidence so as to form the opinion contemplated under Section 52 of the Tamil Nadu Urban Local Bodies Act, 1998, the Impugned Government Order suffers from the vice of being non-speaking. The learned Single Judge in W.P. (MD) No.35403 of 2025, had noted that the Impugned Government Order contains extracts of the explanations offered by the writ petitioner and reasons assigned by the first appellant with regard to same. This Court does not find any material, rationale or discussion for the Government arriving at "the opinion" in the Impugned Government Order, other than the blunt reason that 'upon careful consideration of the explanation of the writ petitioner and para-wise remarks of second appellant thereon, the allegations are proved'. There appears to no enquiry conducted in this regard to collect materials in support of the allegations against the writ petitioner. Hence, the Impugned Government Order cannot be said to be a reasoned / speaking order.

**15.** Moving on to the next main defect, which is violation of principles of natural justice, an additional typed set of papers has been



produced before this Court containing the para-wise remarks of second appellant on the explanation offered by the writ petitioner which was relied upon in removing the writ petitioner from the posts of Chairperson and Ward Councillor. The additional typed set of papers also contains the communication of the first appellant dated September 11, 2025 to the writ petitioner, *inter-alia* furnishing the said para-wise remarks and calling for further explanation. This Court would like to seize this opportunity to make a general observation that, whenever a document is produced before Court, it is always best to produce the complete document along with the annexures mentioned therein. The communication of first appellant contained in the additional typed set of papers does not contain the three annexures it refers to, though one of the relevant annexure document form a separate part of the additional typed set of papers. Nonetheless, it is not a serious issue here, as no dispute was raised with regard to the said communication. Hence, this Court is of the view that the materials available against the writ petitioner, which were relied on to remove her from both the post *vide* the Impugned Government Order, were duly furnished to her. The said documents contained in the additional typed set of papers were not produced before the learned Single Judge in W.P. (MD) No.35403 of 2025, and hence, he was constrained to conclude that the principles of natural



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justice were violated in non-furnishing of materials relied upon.

**15.1.** Be that as it may, providing sufficient opportunity to establish one's case forms a part of the principles of natural justice. Opportunity for cross-examination is one such part. In the writ petitioner's explanation dated September 26, 2025, she had raised a specific plea seeking for an opportunity to cross-examine the Municipal Commissioner which was completely disregarded without assigning any reasons by the Government as it could be seen from a perusal of the Impugned Government Order. Hence, this Court is of the view that in that aspect, the principles of natural justice were violated in this case.

**16.** As it could be seen from the above discussion, there appears to be no materials on record in support of the allegations levelled against the writ petitioner with the Government. On the other hand, none of the Ward Council Members seems to have raised any serious complaints in line of the allegations levelled against her and no No-Confidence Motion was so far moved against her by them. Further, even though licence fee is determined by the Municipal Council subject to the maximum and minimum limit set by the Government, it is the duty of the Municipal Commissioner to issue



licence and collect fee therefor, as stipulated under Section 102 contained under Chapter V - Finance and Budget of the Tamil Nadu Urban Local Bodies Act, 1998. Said Section 102 is extracted hereunder for ease of reference:

***"Licence and fees.***

***102. Grant of licence.—***

*(1) No person shall carry on any trade or business, in any place whether public or private within the municipal limit without a licence granted by the Commissioner subject to such terms and conditions as may be prescribed. Such licence may be renewed for a period not exceeding the period for which it was granted].*

*(2) Every application for the licence shall be made to the Commissioner in such form and in such manner and accompanied by such fee, as may be prescribed.*



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*(3) On receipt of such application, the Commissioner shall, if the application is in order, grant licence:*

*Provided that the Commissioner may inspect the place in which the trade or business is to be carried, if considered necessary:*

*Provided further that no application for grant of licence shall be refused without giving a reasonable opportunity of being heard:*

*Provided also that if the application is not disposed of within a period of sixty days from the date of its receipt, the licence applied therein shall be deemed to have been granted on expiry of the said period.*

*Explanation.- For the purpose of this Chapter, the expression 'trade or business' shall mean any category of shop, establishment, factory or industry, as may be notified by the government, from time to time."*

**16.1.** And it is the duty of the Municipal Commissioner to issue notice in case of an unauthorised shop functioning in the Municipality's rental space, as per Section 102 read with Section 114 A of the Tamil Nadu Urban Local Bodies Act, 1998. In this case, there seems to be no material on record to show whether the Municipal Commissioner acted in accordance with the said provisions and issued notice. If really there were unauthorised



occupants, the Municipal Commissioner ought to have issued a notice as contemplated under the aforesaid provisions. The writ petitioner *qua* Chairperson cannot be said to be in a position to prevent or hinder the functioning of the Municipal Commissioner in accordance with the law, unless otherwise established.

**16.2.** Further, as regards the Council Meeting having been held in her chamber instead of the Council Meeting Hall, the Resolution No.621 of Usilampatti Municipal Council contained in Page No.60 of the typed set of papers shows that the meeting hall was unfit for conducting meetings. Nor is there any conclusive material available to show that the writ petitioner's son participated in the Council Meeting, interfered with the proceedings and caused damage to the decorum and institutional dignity of the Council. None of the Council Members seems to have raised any complaints or concerns in this regard.

**16.3.** Furthermore, the resolution passed by the majority of an elected body, presumably in public interest, cannot be a ground for removal. If it is so, then, all the Council Members who supported the resolution must be removed from their respective posts. The Municipal Commissioner may



advice the local Government, but once a resolution is passed, it is their duty to implement the same. Removing a Chairperson for acting against the advice of the Municipal Commissioner and passing a resolution by majority, is violative of the principle of self-governance contained in Article 243P (e) read with 243Q under Part IX-A of the Constitution of India.

17. The Impugned Government Order literally discloses no material whatsoever in support of the allegations levelled against the writ petitioner who is a people's representative. The authorities must act in a fair and transparent manner, and not in a manner that may reasonably be perceived as a prejudicial one. They must show proper application of mind on their side. Though there is no statutory provision requiring the first appellant / Government to conduct enquiry, they may in appropriate cases, conduct enquiry to ensure that the principles of natural justice is followed to the extent possible and sufficient opportunity is given to the party against whom allegations / charges are levelled to establish their case. In view of the grave allegations levelled against the writ petitioner and in view of the fact that the writ petitioner is an elected representative of the people, this Court is of the view that this is a fit case for conducting a proper enquiry. The first appellant ought to have taken steps to collect material evidence



with regard to the allegations levelled against the writ petitioner and conducted a proper enquiry. The learned Counsel for the respondent herein / writ petitioner would rightly rely **Umesh Baijal's Case**, a Division Bench Judgment of the Hon'ble Allahabad High Court [cited *supra*]. Relevant extracts therefrom reads thus:

*"8. Undoubtedly, any elected office bearer in Local Self-Government has to be put on a higher pedestal than of a Government servant. If the temporary Government employee cannot be removed on the ground of misconduct without holding a full-fledged enquiry, it is difficult to imagine how an elected office bearer can be removed without holding a full-fledged enquiry. In service jurisprudence, minor punishment is permissible to be imposed while holding the enquiry as per the procedure prescribed for it but for removal, termination or reduction in rank, a full-fledged enquiry is required otherwise it will be violative of the provisions of Article 311 of the Constitution of India. The case is to be understood in entirely different context that of the Government employees for the reason that for the removal of the elected office bearers, a more stringent procedure and standard of proof is required. [Vide, Rameshwari Devi v. State of Rajasthan [AIR 1999 Raj 47.] ].*



9. *The Hon'ble Apex Court examined the provisions of the Punjab Municipal Act, 1911, providing for the procedure of removal of the President of the Municipal Council on similar grounds in Tarlochan Dev Sharma v. State of Punjab [(2001) 6 SCC 260.] . The Court held that removal of an elected office bearer is a serious matter. The elected office bearer must not be removed unless a clear-cut case is made out, for the reason that holding and enjoying an office, discharging related duties is valuable statutory right of not only of the elected member but also of his constituency or electoral college. His removal may curtail the term of the office bearer and also cast stigma upon him, therefore, the grounds under a particular provision for removal must be strictly adhered to and unless a clear case is made out, there can be no justification of his removal. While taking the decision, the authority should not be guided by any other extraneous consideration or should not come to any political pressure. In a democratic institution, like ours, the incumbent is entitled to hold the office for the term for which he has been elected unless his election is set aside by a prescribed procedure known to law or is removed by the procedure established under law. The proceedings for removal must satisfy the requirement of natural justice and the decision must show that the authority had applied its mind to the allegations made and the explanation furnished by the elected office bearers sought to be removed.*

XXX

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13. *Thus, it is evident that if a Chairman is removed*



*under these provisions, it would have a very serious repercussion and consequence not only on the Chairman but also on the constituency, which he represented because he is being removed from the membership also, therefore, it cannot be permissible in law to remove him without complying with the requirement of law, as required under the facts and circumstances of a particular case. Sub-section 2-A of section 48 of the Act, 1916 provides for a procedure of removal stipulating that after considering any explanation that may be offered by the President and making such enquiry as it may consider necessary, the State Government may, for reasons to be recorded in writing, remove him. The law does not permit or give unfettered powers to the State Government for passing an order of removal of the Chairman merely after considering his explanation to the show cause. It would depend upon the facts of each case as to whether an enquiry is required. There may be a case of admission by the President himself or the case against him is of such a nature for which he can furnish no explanation or the facts of a case are so admitted or admittedly such that no explanation is required at all, in such eventuality, it will not be necessary to hold a regular enquiry and examine the witnesses etc.*



*giving an opportunity of cross-examination of the witness. There may be a case where the State is considering the affidavits filed by certain persons complaining against the misconduct of the Chairman, if State wants to take into consideration the said affidavits and in his explanation the Chairman denies the allegations, the affidavit cannot be relied upon without giving an opportunity to the Chairman to cross-examine the dependents, as required under the provisions of Order XIX, Rule 2 of the Code of Civil Procedure, for the reason that the Code itself is nothing but codification of the principles of natural justice. The provisions of Order XIX, Rule 2 of the Code become mandatory.*

*XXX*

*XXX*

*XXX*

*39. Thus, in view of the above, it cannot be held that in each and every case, non-observance of principles of natural justice would vitiate the order. It has to be understood in the context and facts-situation of each case and requirement of statutory Rules applicable therein. However, in a given case, if the allegations are of a serious nature and has to be proved on a documentary as well as on oral evidence, it is desirable to have a fulfilled enquiry for the reason that removal only on asking the explanation and*



*consideration thereof, would not be sufficient to meet the requirement of law unless the facts are admitted or undeniable. It is not possible to lay down any straight jacket formula as in what cases the fulfledged enquiry is to be held and in what cases removal is permissible on asking office bearers to furnish the explanation to the charges. It will depend on the facts of an individual case."*

18. In view of the above narrative, this Court is of the view that the Impugned Government Order namely the Order dated November 7, 2025 made in G.O(N).No.375, Department of Municipal Administration and Drinking Water Supply Na.Ni.5(2) by the first appellant herein, removing the writ petitioner from the posts of Chairperson and Ward Councillor is liable to be set aside.

### **CONCLUSION**

19. The Writ Appeal is dismissed. The Impugned Government Order is set aside. The matter is remitted to the first appellant for afresh consideration, in light of the discussion made hereinabove. The request of the writ petitioner for an opportunity to cross-examine the Municipal Commissioner shall be acceded to and the principles of natural justice shall be complied with in all aspects. Any Order passed shall be a



reasoned one disclosing sufficient cause and materials. In view of the facts and circumstances of this case, there shall be no order as to costs.

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Consequently, connected Civil Miscellaneous Petition is closed.

**(C.V.K.,J.) (R.S.V,J)**  
**14 / 08 / 2026**

Index : Yes  
Speaking Order : Yes  
Neutral Citation : Yes  
gvn



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W. A. (MD). No. 176 of 2026



**C.V.KARTHIKEYAN, J.**  
**AND**  
**R.SAKTHIVEL, J.**

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**PRE-DELIVERY JUDGMENT MADE IN**  
**WA. (MD) No.176 of 2026**

**14 / 08 / 2026**