

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.10.2015

CORAM

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.6030 of 2014
and
M.P.Nos. 2 and 3 of 2015

Banumathi Duraisamy

...Petitioner

-Vs-

1. The Inspector of Panchayat
(District Collector),
Vellore, Vellore District.

2. Pandiyan,
Commissioner
(Scheme Block Development Officer)
Panchayat Union,
Vellore, Vellore District.

3. Shankar,
Vice President,
Athiyur Panchayat,
Vellore.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records Na.Ka.A4 64/2013 dated 13.05.2013 from the file of the 1st respondent and quash the same directing the 1st respondent confer cheque drawing power and operation of Panchayat II, III, IV, V and VI Panchayat account with the petitioner with another ward member of Athiyur Panchayat Board or to confer sole power to the petitioner and grant such other relief.

For Petitioner : Mr.R.Margabandhu

For Respondents : Mr.M.Digvijaya Pandian,
Additional Government Pleader
for R1 & R2

Mr.G.Jeremiah for R3

O R D E R

The petitioner is the elected President of Athiyur Panchayat Board, Vellore, Vellore District. The 3rd respondent is Vice-President of the said Panchayat. Making certain allegations against the petitioner, a representation was given to the District Collector on 18.06.2012 by the 3rd respondent and thereafter obtained a direction from this Court on 01.03.2013, directing the Collector to conduct an enquiry. Thereafter, after ascertaining the views of all the persons including the petitioner and the 3rd respondent, the impugned order has been passed taking away the cheque signing power of the petitioner-President and the 3rd respondent-Vice-President. The said order is being challenged by the petitioner.

2. Mr.R.Margabandhu, learned counsel appearing for the petitioner would submit that there is no allegation of misappropriation or any maladministration proved against the petitioner. It is only the third respondent who is not co-operating with the petitioner in the administration. Secondly he would submit that if the 3rd respondent is not co-operating with the petitioner, the cheque signing power of the 3rd respondent alone is required to be taken away whereas, the 1st respondent/Collector by the impugned order took away the cheque signing power of both the President and Vice-president, which is against law and therefore, he seeks to set aside the impugned order and to restore the cheque signing power to the petitioner alone.

3. Mr.G.Jeremiah, learned counsel appearing for the 3rd respondent would submit that based on the enquiry conducted by the Collector, the cheque signing power of both the persons have been taken away. He would submit that there are allegations of misappropriation against the petitioner and therefore, the 3rd respondent after obtaining orders from this Court and after convening the meeting by the Collector only, the impugned order has been passed. Therefore, he supported the impugned order.

4. Mr.M.Digvijaya Pandiyan, learned Additional Government Pleader appearing for respondents 1 and 2 would submit that only in the interest of the Panchayat, the impugned order has been passed.

5. No doubt, the 3rd respondent made certain allegations against the petitioner and gave a representation on 18.06.2012 and obtained an order from this Court on 01.03.2013 directing the 1st respondent to conduct an enquiry and dispose of the representation. Pursuant to that only, after ascertaining the views of all the concerned, it was found that there was no co-operation between the petitioner-President and the 3rd respondent Vice-President and in the interest of General Public, the cheque signing power of both the persons have been given to the Block Development Officer. When the 1st respondent/Collector after ascertaining the views of all the persons found that there was no co-operation between the petitioner and the 3rd respondent, he should have also ascertained, who was at fault. Without ascertaining that, he cannot take away the cheque signing power of the two elected representatives. Therefore, the impugned order is liable to be set aside in favour of the petitioner for the following reasons:

(i) even after giving a petition by the 3rd respondent, on enquiry, the impugned order has been passed and no allegations of corruption or misappropriation have been mentioned in that against the petitioner.

(ii) the impugned order has been passed as early as on 13.05.2013 and the administration is being run by the Block Development Officer by signing the cheques. The petitioner is aggrieved and challenged the impugned order whereas, the 3rd respondent has not challenged this order. Therefore, it is very clear that the right of the petitioner alone has been violated and by taking away the cheque signing power of the petitioner, the respondent is also willing to sacrifice his cheque signing power. It would also denote that by hook or crook, the 3rd respondent wants to take away the cheque signing power of the petitioner at the cost of losing the cheque signing power and therefore, this Court can presume that the 3rd respondent alone was not co-operating with the petitioner. If really the 3rd respondent is aggrieved with the impugned order, certainly, he would have approached this Court as he has already approached

this Court by filing W.P.No.4966 of 2013. This circumstances is also against the 3rd respondent and therefore, the impugned order is liable to be set aside only in respect of taking away the cheque signing power of the petitioner alone. By this order, the cheque signing power of the petitioner is restored. Since as per Section 188(3) of the Tamil Nadu Panchayat Act, 1994 the power is conferred upon the Collector to nominate any other member of the Village Panchayat to sign, the 1st respondent/District Collector is directed to appoint any Ward Member as co-signing authority along with this petitioner, within a period of four weeks from the date of receipt of a copy of this order.

With the above direction, this Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

vsm

To

1. The Inspector of Panchayat
(District Collector),
Vellore, Vellore District.
2. Pandiyan,
Commissioner (Scheme Block Development Officer)
Panchayat Union,
Vellore, Vellore District.

- 1 CC to Mr.R.Margabandhu, Advocate SR.No. 55514
1 CC to Mr.G.Jeremiah, Advocate SR.No. 55234
1 CC to the Government Pleader, SR.No. 55599

W.P.No.6030 of 2014

MSM (CO)
PSI (14.10.2015)