

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18-03-2015

CORAM:

THE HONOURABLE MR. JUSTICE T.S. SIVAGNANAM

W.P.No.22181 of 2014
and M.P.No.1 of 2014

1 R. Thashnamurthy
S/o.K.Ramakrishnan Murugan Kovil Street
Aagaram Village Vettavakkam Post
Thiruvannamalai District Petitioner

Vs

1 Inspector of Panchayat and
District Collector Thiruvannamalai
District Tamilnadu Respondent

Petition filed under Article 226 of the Constitution of India praying for issue of writ of Certiorari to call for the records of the respondents pertains to the impugned order bearing reference Na. Ka. No. 3274/2014/A2 dt 23.7.2014 and quash the same

For petitioner :: Mr. P.R. Thiruneelakandan
For respondents :: Mr. R.A.S. Senthilvel, AGP

ORDER

Heard Mr.P.R. Thiruneelakandan, learned counsel for the petitioner and Mr.R.A.S. Senthilvel, learned Additional Government Pleader for the respondents. Perused the materials filed in support of the petition and also the counter affidavit filed by the learned Additional Government Pleader.

2. The petitioner is an elected Vice President in Agaram Village Panchayat and the order impugned in this writ petition is an order passed by the respondent transferring the cheque signing power of the petitioner in respect of the Panchayat Cheques and vesting the same with the elected 4th Ward Member viz., Tmt. K. Malliga. The petitioner has challenged the impugned proceedings as being in violation of the principles of natural justice and Tamil Nadu Panchayat Act, more particularly, Section 204(3) of the Act and there is absolutely no justification for exercise of such power.

3. The learned Additional Government Pleader by relying upon the counter affidavit and original files submitted that based on the direction issued by the respondent, the Block Development Officer (Village Panchayat), Kilpennathur was directed to conduct an enquiry vide Lr.No.974/2014/A2 dated 21-02-2014 and an enquiry

was conducted and the petitioner also attended the enquiry and gave statement during the enquiry, and based on such enquiry, the Block Development Officer submitted a report and based on such report, the respondent has passed the impugned order. Admittedly, the cheque signing power vests only with the respondent and based on the report issued to the Block Development Officer, who could be considered only as a fact finding authority, the cheque signing power cannot be taken away, though it is for a temporary period.

4. Admittedly, a copy of the report submitted by the Block Development Officer, based on which the impugned order is said to have been passed has not been furnished to the petitioner though it is referred to in the impugned order as reference No.1. In such circumstances, this Court is of the view that there has been violation of principles of natural justice and therefore, the impugned order is liable to be set aside.

5. It is seen that at the time of admission of the writ petition, an order of interim stay was granted on 19-08-2014. By virtue of the interim order, the impugned order has not been implemented.

6. In the light of the above, the writ petition is allowed and the impugned order is set aside. The writ petitioner is permitted to sign the cheques as co-signatory. In the light of the fact that the impugned order is set aside on the grounds of principles of natural justice, it is open to the respondent to issue notice enclosing the copy of the report of the Block Development Officer and other documents to enable the petitioner to submit his objections and after enquiring the petitioner in person may pass fresh orders on merits and in accordance with law, if the respondent in his opinion, so desires. No costs. The connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1 Inspector of Panchayat
District Collector , Thiruvannamalai
Tamilnadu

+1 cc to Mr.P.R.thiruneelakandan, Advocate,SR.15529.

ctk(co)
krd 7/4

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