

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.05.2015

CORAM

THE HONOURABLE MR.JUSTICE R. SUBBIAH

Writ Petition No.14437 of 2015

and

M.P.Nos.1 & 2 of 2015

T. Sarala @ Sarala Tamilmani

... Petitioner

Vs.

1. The Tahsildhar
Thiruvallur.
2. Mel Nallathur Village Panchayat
By its President
Mel Nallathur 602 004.
Thiruvallur District.
3. The Inspector of Panchayats cum
District Collector
Thiruvallur District, Thiruvallur.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari, to call for all the records relating to the impugned Resolution No.Nil dated 09.04.2015 purported to have been passed by the Mel Nallathur Village Panchayat-602 004, Thiruvallur District, the 2nd respondent herein, and the subsequent impugned communication No.Na.Ka.3238/2015/A1/dated 30.04.2015 issued by the Tahsildar, Thiruvallur, the 1st respondent herein, and quash the same.

For Petitioner : Mr.J. Thilagaraj

For Respondents : Mr.R. Vijayakumar
Additional Government Pleader

O R D E R

This writ petition is filed for issue of a Writ of Certiorari, to call for all the records relating to the impugned Resolution No.Nil dated 09.04.2015 purported to have been passed by the Mel Nallathur Village Panchayat-602 004, Thiruvallur District, the 2nd respondent herein, and the subsequent impugned communication No.Na.Ka.3238/2015/A1/dated 30.04.2015 issued by the Tahsildar, Thiruvallur, the 1st respondent herein, and quash the same.

2. The case of the petitioner is that she was elected as the member of the Mel Nallathur Village Panchayat, Thiruvallur District in the Panchayat elections held in the year 2011. Later, she was elected as the Vice President of the said Village Panchayat. According to the petitioner, though she was carrying out all her duties and responsibilities, based on the complaint given by some of the members of the Village Panchayat, to the 1st respondent herein, the copy of which was not even served on the petitioner, an explanation dated 19.02.2015 was obtained from her. Further, according to the petitioner, the 1st respondent herein, sent communications on various dates to the members of the Village Panchayat to convene meetings on dates mentioned in those communications for bringing in No-confidence motion against the petitioner, without complying with Section 211(5) of the Tamil Nadu Panchayats Act, 1994, which contemplates 15 clear days' notice, prior to the date of such meetings. Though the earlier meetings got adjourned, on 09.04.2015, the 1st respondent herein sent a communication to all the members that the meeting of the Village Panchayat will be convened on the same day, i.e, on 09.04.2015 itself, contrary to the provisions of the above said Act, for bringing in No Confidence motion against the petitioner and a resolution was also passed on that day stating that the members had voted against the petitioner. On 30.04.2015, the 1st respondent sent a letter to the President of the Village Panchayat, Mel Nallathur, asking her to get the resolution dated 09.04.2015 passed in the Village Panchayat meeting and to get it recorded in the Village Panchayat Resolution Book. Hence, the petitioner has come forward with the present writ petition challenging the resolution dated 09.04.2015.

3. The main submission of the learned counsel for the petitioner is that neither the copy of the complaint was served on the petitioner nor the provisions of the Tamil Nadu Panchayats Act, 1994 were complied with, before passing the impugned resolution. The learned counsel further submitted that as per Section 211(5) of the above said Act, "the Tahsildar shall give to the members notice of

not less than fifteen clear days of such meeting and of the time appointed therefor." However, giving a go-by to the mandatory provision, the impugned resolution has been passed and hence, the same is liable to be set aside.

4. Learned Additional Government Pleader appearing for the respondents also admits that 15 days' clear notice, as contemplated under Section 211 of the above said Act, has not been complied with, before passing the impugned resolution dated 09.04.2015.

5. Considering the submissions made by the learned counsel on either side, this Court is constrained to pass the following order:

"The impugned resolution dated 09.04.2015 is set aside and the matter is remitted back to the 1st respondent, directing him to issue a fresh notice, giving 15 clear days time, for convening the meeting, as per Section 211 of the Tamil Nadu Panchayats Act, 1994, and thereafter, proceed further, in accordance with law."

The writ petition is disposed of accordingly. No costs. Connected M.P. Is closed.

Sd/-

Assistant Registrar(CS II)/
Vacation Officer

//True Copy//

Sub Assistant Registrar

nv

To

1. The Tahsildhar, Thiruvallur.

2. Mel Nallathur Village Panchayat By its President
Mel Nallathur 602 004.
Thiruvallur District.

3. The Inspector of Panchayats cum District Collector
Thiruvallur District, Thiruvallur.

+2cc's to Mr.J.Thilagaraj, Advocate, S.R.No.25103

+1cc to the Government Pleader, S.R.No.25253

Writ Petition No.14437 of 2015
and M.P.Nos.1 & 2 of 2015

TEJ(CO)

CA(22/05/2015)