

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.09.2014

CORAM

THE HON'BLE MR. JUSTICE N.KIRUBAKARAN

W.P.Nos.33418 and 23441 of 2014

and

M.P.Nos.1 and 1 of 2014

and

M.P.No.1 of 2015

W.P.No.33418 of 2014

C.Rajini  
Petitioner

Vs.

1.The District Collector cum  
Inspector of Panchayat,  
Cuddalore District, Cuddalore.

2.The Block Development Officer,  
Kaliyamalai Panchayat Union,  
Cuddalore District.

3.K.Senthilkumar

4.R.Chandrasekaran

5.State Bank of India,  
Vilagam Road,  
T.Nedincheri 606 305,  
Cuddalore District.

सत्यमेव जयते.. Respondents

W.P.No.23441 of 2014

C.Rajini

Vs.

.. Petitioner

1.The District Collector,  
Cuddalore District,  
Cuddalore.

2.The Block Development Officer,  
Kaliyamalai Panchayat Union,  
Cuddalore District.

3.K.Senthilkumar.

.. Respondents

W.P.No.33418 of 2014 filed under Article 226 of The Constitution of India praying to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned order issued by the first respondent in Na.Ka.No.A8/2743/2014 dated 16.11.2014, and to quash the same and to consequently direct the respondents to restore the cheque signing power of the petitioner as Vice President of Village panchayat to operate Panchayat Fund Account and to take appropriate legal action against the 3rd respondent for having committed serious irregularities and misappropriation of Panchayat Fund including forging the signature of the petitioner in the cheques for withdrawal of money, within a time frame.

W.P.No.23441 of 2014 filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the first respondent to take appropriate action against the third respondent under the provisions of the Tamil Nadu Panchayat Act and other relevant statute for the serious irregularities and defalsification as well as forging the signatory of the petitioner committed by the third respondent by considering the representation submitted by the petitioner dated 28.7.2014 within a time frame.

|                    |    |                                                           |
|--------------------|----|-----------------------------------------------------------|
| For Petitioner     | .. | Mr.G.Sankaran                                             |
| For 1st respondent | .. | Mr.V.Jayaprakash Narayanan,<br>Special Government Pleader |
| For 2nd respondent | .. | Mr.P.Chinnadurai                                          |
| For 3rd respondent | .. | Mr.Durai Solamalai                                        |

सत्यमेव जयते

COMMON ORDER

Vice President of Kaliyamalai Panchayat Union, South Viruthanga, Kattumannargudi Taluk has filed the above two Writ Petitions. In W.P.No.33418 of 2014, he has challenged the order passed by the first respondent on 16.11.2014 by which the cheque signing power of the petitioner was taken away stating that the petitioner has not co-operated with the third respondent/President. In Writ Petition No.23441 of 2014, he has sought for a direction to the first respondent to take appropriate action against the third respondent under the provisions of the Tamil Nadu Panchayat Act and other relevant statute for serious irregularities, defalsification as well as forging the signature of the petitioner, having committed by the

third respondent, as per the petitioner's representation dated 28.07.2014.

2. Heard Mr.G.Sankaran, learned counsel for the petitioner, Mr.V.Jayaparakash Narayanan, learned Special Government Pleader for R1, Mr.P.Chinnadurai, learned counsel for R2 and Mr.Durai Solaimalai, learned counsel for R3. The fourth respondent was served but no one entered appearance. The fifth respondent is only a formal party.

3. It is an admitted fact that the petitioner is a Vice President of Kaliayamalai Panchayat. It seems there is a dispute between the petitioner and the third respondent/President and because of their dispute, the panchayat administration is affected. The petitioner contends that the third respondent by misusing his position, falsified the accounts, forged the petitioner's signature and committed serious irregularities in utilising the funds of the panchayat. Therefore, pointing out the irregularities, the petitioner has given a representation on 28.07.2014 to the first respondent. Since no action has been taken, W.P.No.23441 of 2014 has been filed for a direction as stated above.

4. Even though Mr.V.Jayaprakash Narayanan, learned Special Government Pleader would produce a copy of the order stating that the petitioner's representation was considered and the same was rejected, no speaking order has been produced before this Court. The petitioner had given a number of instances wherein the alleged irregularities are said to have been committed by the third respondent. It involves verification from the banks and other authorities to find out whether the alleged forged signatures have been used. After getting a report from all the authorities as per the document produced by the petitioner, the first respondent is directed to conduct enquiry afresh and pass appropriate orders within a period of 12 weeks from the date of receipt of a copy of this order. All the parties are directed to co-operate with the authorities for the enquiry to be conducted. Accordingly, W.P.No.23441 of 2014 is ordered.

5. As far as W.P.No.33418 of 2014 is concerned, the cheque signing power has been taken away. Therefore, the petitioner has come before this Court. What is to be noted is that after the petitioner filed W.P.No.23441 of 2014, no enquiry was conducted. Based on the report of the Block Development Officer, the first respondent/District Collector passed the impugned order taking away the petitioner's cheque signing power. Though the petitioner pointed out non-compliance of certain procedural formalities with regard to passing of the resolution and convening of the meeting, this Court only directs the first respondent to pass appropriate orders on merits and in accordance with law after holding enquiry. Only after conducting enquiry as per the direction given by this Court in W.P.No.23441 of 2014, it will be known whether the third respondent has committed irregularities or the petitioner has not co-operated

with the third respondent/President. Therefore, the first respondent is directed to enquire with regard to the allegations made against the third respondent and thereafter, reconsider the decision which has been reflected in the impugned order dated 16.11.2014 taking away of the cheque signing power.

6. A perusal of the impugned order dated 16.11.2014 taking away of the cheque signing power of the petitioner would show that the said order was passed only on the ground that the petitioner refused to sign the cheques and co-operate with the third respondent President. Since the learned counsel for the petitioner contends that the petitioner is ready to put the signature, the ground which has been made in the impugned order goes and therefore, the Writ Petition No.33418 of 2014 has to be allowed and accordingly, the Writ Petition is allowed only on the ground the petitioner comes forward to sign the cheques. However, it is made clear that the cheque has to be placed before the Block Development Officer/second respondent. The petitioner as well as the third respondent shall put their signatures before the Block Development Officer/second respondent so that it will avoid any future problem. Pending cheques have to be signed within a period of one week from the date of receipt of a copy of this order.

7. In the result, W.P.No.23441 of 2014 is ordered and W.P.No.33418 of 2014 is allowed. No costs. The connected Miscellaneous Petitions are closed.

Sd/-  
Asst.Registrar

/true copy/

Sub Asst. Registrar

To

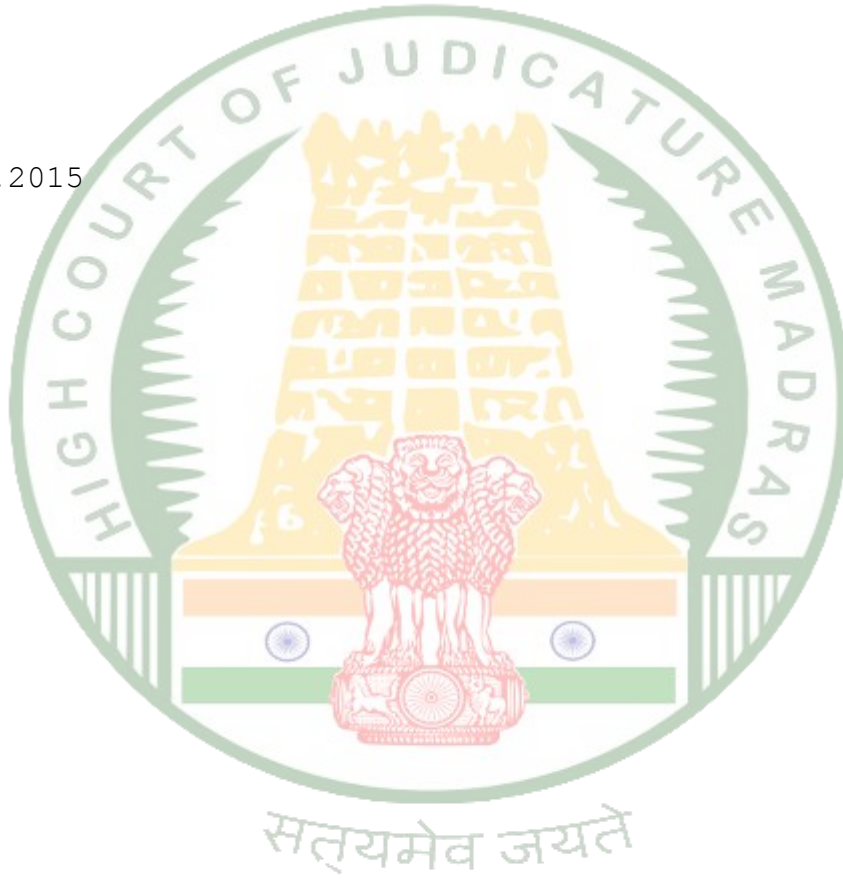
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4.State Bank Of India,  
Vilagam Road, T.Nedincheri 606 305  
Cuddalore Dt

+2cc to Mr.G.Sankaran, Advocate Sr.47607,47609  
+1cc to Mr.P.Chinnadurai, Advocate Sr.47268  
+1cc to Government Pleader Sr.47649

W.P.Nos.33418 and  
23441 of 2014  
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M.P.Nos.1 and  
1 of 2014  
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