

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2015

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P.No.18556 of 2015
and M.P.Nos.1 & 2 of 2015

P.Poyyamozhi
]

[Petitioner

Vs

- 1 The Government of Tamilnadu
Rep. by its Secretary
Department of Local Authority and
Rural Administration
Fort St. George Chennai-600 009.
- 2 The District Collector cum
Inspector of Panchayat
Thiruvarur District, Thiruvarur.
- 3 The Tahsildar
Mannargudi Taluk Office Mannargudi Post
Thiruvarur District.
- 4 The Assistant Director
(Panchayat) Office of Collectorate
Thiruvarur District.

[Respondents]

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of certiorarified mandamus calling for the records in Na.Ka. 1971/2014/A2/U E (VOO) dated 19.06.2015 published in Thiruvarur District Gazette Special Publication dated 22.06.2015 on the file of the 2nd respondent and quash the same as illegal error on the face of record and against the principle of natural justice and direct the 2nd respondent to allow the petitioner to continue as a President of Ullikottai Panchayat Ullikottai Post Mannarkudi Taluk Thiruvarur District.

For Petitioner : Mr.A.Thiagarajan, Senior Counsel
for Mr.D.Veerasekaran

For Respondents : Mr.A.Kumar, Special Government Pleader

O R D E R

Heard the learned Senior Counsel for the petitioner and the learned Special Government Pleader for the respondents.

2. This writ petition has been filed by P.Poyyamozhi, challenging the proceedings in Na.Ka. 1971/2014/A2/U E (VOO) dated 19.06.2015 published in Thiruvavarur District Gazette Special Publication dated 22.06.2015, removing the President from the President-ship.

3. Mr.A.Thiagarajan, learned Senior Counsel appearing for the petitioner, taking support from the ratio laid down by the Full Bench decision of this Court reported in 2009-4 LW-778 in the case of The District Collector and Inspector of District Panchayat, Villupuram and another vs. Devi Parasuraman & another submitted that if the Inspector differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President intimating the reasons for difference. Learned Senior Counsel for the petitioner submitted that the principle laid down by this Court has not been followed as far as the present case is concerned before removing the President. Adding further, learned Senior Counsel submitted that out of the 9 elected ward members in Ullikottai Village, when a meeting was organized at the instance of the District Collector to find out the views of the elected ward members for removal of the President by the Tahsildar, 7 of the elected members have not supported the removal of the President. Therefore, under law, the District Collector, even if he differs with the views expressed by the majority of the Village Panchayat is required to record the reasons for differing with the views of the Village Panchayat before taking a decision for removal of the President. But, that has not been followed in the present case. Therefore, the impugned order is liable to be set aside.

4. On this issue, after filing counter, when the learned Special Government Pleader was directed to take instructions, today, he has filed a typed set of papers enclosing a copy of the undated letter of the Vice President of the Panchayat addressed to the District Collector, seeking action against the removal of the President with the support of 6 elected ward members.

5. After placing the above said document before this Court by the learned Special Government Pleader, the learned Senior Counsel for the petitioner submitted that the said undated document was not furnished to the petitioner, as it is sine-qua-non when the meeting is held by the Tahsildar.

6. A mere reading of the undated letter of the Vice President of the Panchayat to the District Collector shows that A.Jayaseelan, S.Senthamaraiselvi, M.Mathialagan, P.Alexander and M.Sekar, the elected members of the Village have also supported the move made by the Vice President for removal of the President.

7. The learned Special Government Pleader submitted that the aforementioned 6 elected ward members after requesting the District Collector along with the Vice President for initiating removal proceedings, they have filed individual affidavits. Therefore, question of complying with the principles laid down by the Full Bench Decision of this Court does not arise.

8. In such view of the matter, this Court hereby directs the District Collector to request the Tahsildar to hold one another meeting to find out the views of the elected members and thereafter to take a final decision. The said exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the impugned order shall be kept in abeyance

The writ petition is disposed of with the above direction. No costs. Connected miscellaneous petitions are closed.

-s/d-

Assistant Registrar

True Copy

सत्यमेव जयते

Sub-Assistant Registrar

rg

To

1

The Government of Tamilnadu

Rep. by its Secretary

Department of Local Authority and

Rural Administration

Fort St. George Chennai-600 009.

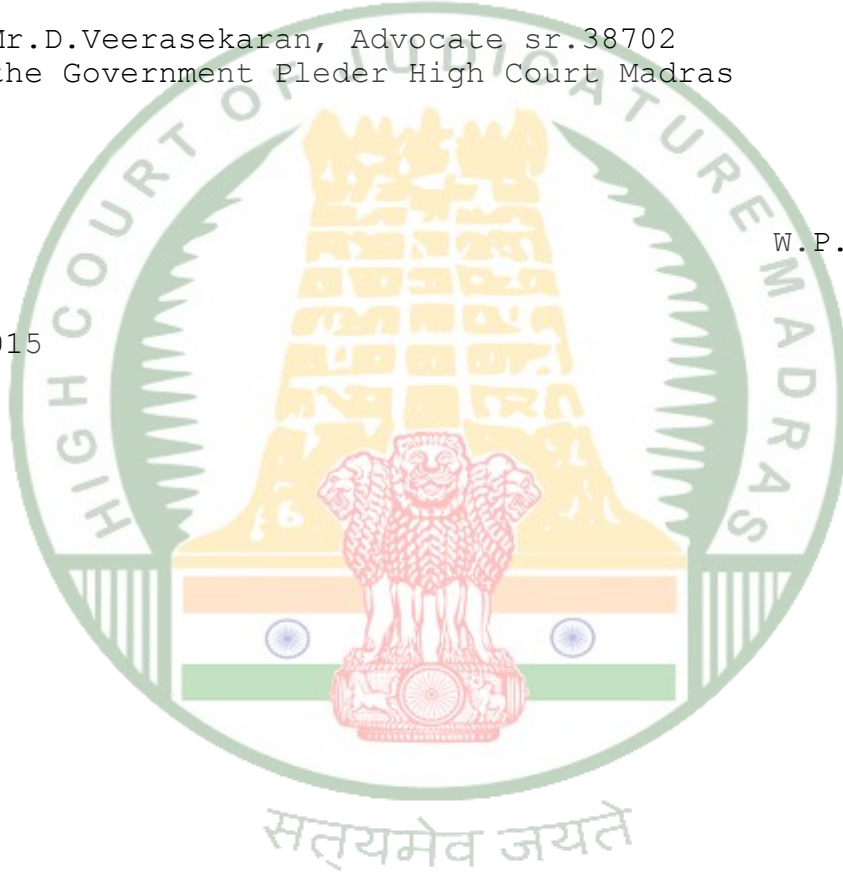
WEB COPY

- 2 The District Collector cum
Inspector of Panchayat
Thiruvarur District, Thiruvarur.
- 3 The Tahsildar
Mannargudi Taluk Office Mannargudi Post
Thiruvarur District.
- 4 The Assistant Director
(Panchayat) Office of Collectorate
Thiruvarur District.

+1 cc to Mr.D.Veerasekaran, Advocate sr.38702
+1 cc to the Government Pledar High Court Madras
sr.38736

W.P.No.18556 of 2015

aa05/08/2015



WEB COPY