

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.08.2015

CORAM :

THE HONOURABLE MR. JUSTICE N.KIRUBAKARAN

W.P.No.18808 of 2015
and M.P.No.1 of 2015

M.Vijaya Manimaran

... Petitioner

vs.

1.The District Collector (Inspector of Panchayats)
Salem District,
Salem.

2.The Assistant Director of Rural Development (Audit)
Salem District.

3.The Block Development Officer,
Village Panchayat,
Veerapandi Panchayat Union,
Salem District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the constitution of India praying for a writ of certiorari calling for the respondents pertaining to the surcharge notice dated 27.05.2014 bearing Roc.No.1623/2014/A4 passed by the second respondent and quash the same.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.Rm.Muthukumar
Govt. Advocate for R1 & R2
Mr.R.Govindasamy for R3

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O R D E R

The petitioner unsuccessfully contested the Panchayat election conducted during October 2011 demitted the office and handed over the records of the village panchayat namely Maramangalathupatti Village, Veerapandi Panchayat Union. Before that, she was the President for two tenures namely 2001 - 2006 and 2006 - 2011. Based on the audit objection, surcharge notice dated 27.05.2014 has been issued to the petitioner to the tune of Rs.28,05,419/- stating that the petitioner operated the account contrary to the Government

guidelines and caused a loss of Rs.28,05,419/-. The said surcharge notice is challenged before this court.

2. Heard Mr.V.Suthakar, learned counsel appearing for the petitioner, Mr.Rm.Muthukumar, learned counsel appearing for R1 & R2 and Mr.R.Govindasamy, learned Addl. Govt. Pleader appearing for R3.

3. According to the third respondent, based on inspection report of the Deputy Block Development Officer of Panchayat Union, the surcharge notice was given to the petitioner and the third respondent is entitled to proceed against the petitioner, as per law. Rule 3 (2) of Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000 contemplates that authorities have to furnish the reason for the audit objection in respect of the surcharge notice to the person concerned and seek his explanation.

4. Though it is contended by the respondents, particularly the third respondent that all the documents were furnished to the petitioner, the petitioner addressed a letter dt.13.05.2015 to the third respondent stating that what was furnished to her is only the audit objections and the actual objections were not furnished. As per law, the complete objections have to be supplied to the petitioner and not selected objections. Moreover, by letter dated 21.05.2015, the second respondent wrote a letter to the third respondent directing the third respondent to furnish all the documents. However the said documents have not been furnished. Only in the open court, an attempt has been made to furnish the documents to the learned counsel for the petitioner which are stated to be audit objections.

5. It is very clear that the documents which are required to be furnished as per Rule 3 (2) of Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000 have not been supplied by the respondents and therefore, the impugned surcharge notice dated 27.05.2014 bearing Roc.No.1623/2014/A4 passed by the second respondent suffers and the same is quashed. However, it will not prohibit the respondents from issuing fresh surcharge notice to the petitioner, as per law.

6. In the result, the writ petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

rgr

To

1.The District Collector
(Inspector of Panchayats)
Salem District,
Salem.

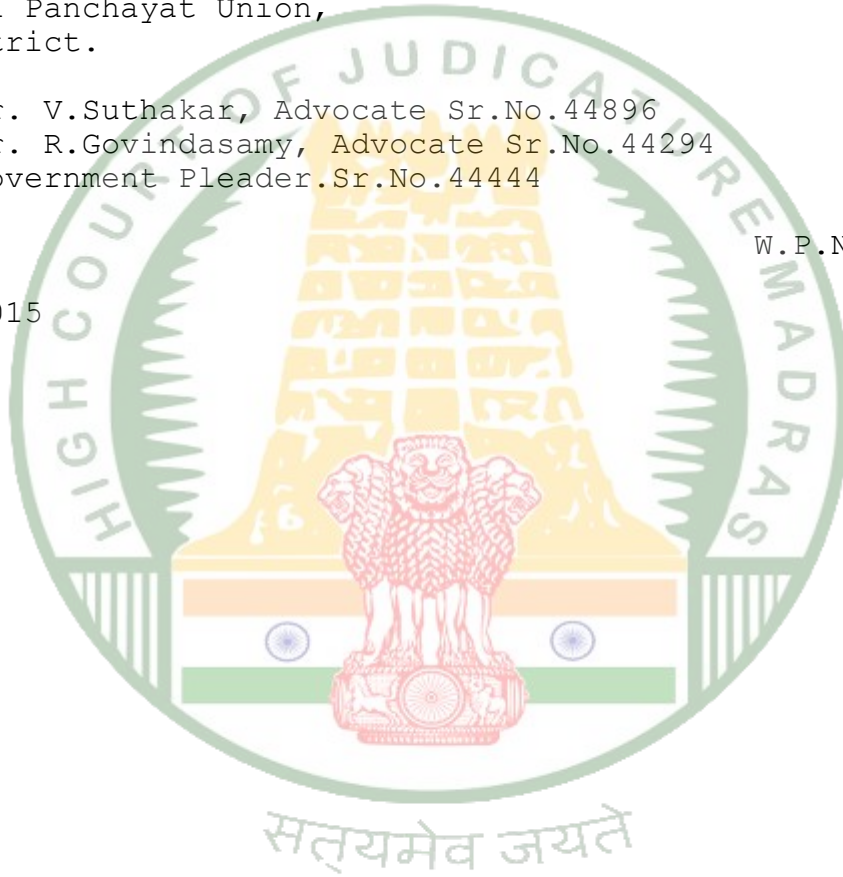
2.The Assistant Director of
Rural Development (Audit)
Salem District.

3.The Block Development Officer,
Village Panchayat,
Veerapandi Panchayat Union,
Salem District.

1 cc to Mr. V.Suthakar, Advocate Sr.No.44896
1 cc to Mr. R.Govindasamy, Advocate Sr.No.44294
1 cc to Government Pleader.Sr.No.44444

gj (co)
pmk.9.9.2015

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