

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.2131 OF 2015
& M.P.NO.1 OF 2015

P.Settu

.. Petitioner

Versus

1. The Inspector of Panchayat-cum-District Collector,
Thiruvannamalai District.
2. The Assistant Director (Village Panchayats),
Thiruvannamalai.
3. The Block Development Officer (Village Panchayats)
Thurinjapuram.
Thiruvannamalai District.
4. The Branch Manager,
Bank of Baroda,
Kamalaputtur.

5. M.Sakthivel **

.. Respondents

** R5 impleaded as per order dated 11.02.2015
in M.P.No.2/15 in W.P.No.2131/15

PRAYER: Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of Writ of Certiorarified Mandamus to call for the records of the order dated 08.01.2015 passed by the first respondent in Proceedings No.Na.Ka.5136/2014/A2/AD(vp) and quash the same, consequently direct the first respondent to restore the cheque signing powers.

For Petitioner : Mr.M.Dhandapani

For Respondents : Mr.V.Jayaprakash Narayanan,
Special Govt. Pleader for RR 1 and 2

Mr.P.Chinnadurai for R3

Mr.S.N.Ravichandran,
for M/s.V.Madhavan for R5

O R D E R

Heard Mr.M.Dhandapani, learned counsel appearing for the petitioner, Mr.V.Jayaprakash Narayanan, learned Special Govt. Pleader appearing for the respondents 1 and 2, Mr.P.Chinnadurai, learned counsel for the third respondent Bank and Mr.S.N.Ravichandran, learned counsel for the fifth respondent.

2. The petitioner is the elected President of the Kamalaputtur Village Panchayat, Thiruvannamalai Taluk and District and challenge in this writ petition is to the order dated 08.01.2015 passed by the first respondent, the District Collector, revoking the cheque signing power granted to the petitioner, in the capacity as President of the village panchayat, as a co-signatory along with the Vice-President and entrusting the same to the fifth respondent.

3. The learned counsel for the petitioner submitted that an inspection was conducted on 14.10.2014 by the Assistant Director of Village Panchayat, pursuant to which, a show-cause notice was issued on 14.11.2014 to the petitioner. It is further submitted that the petitioner could not give a reply immediately, since all the records were taken away by the Assistant Director and subsequently, the impugned order was passed on 08.01.2015. The learned counsel for the petitioner, after elaborately referring to the factual averments, contended that the petitioner has given a complaint as against the fifth respondent, which was acknowledged in CSR No.639/2014 on 18.12.2014 stating that the fifth respondent and others have taken away and torn the minutes book, whereas, one of the allegations is that the Grama Sabha meeting was not convened. Therefore, it is submitted that the allegations in the show-cause notice are erroneous. Further, it is pointed out by the learned counsel for the petitioner that in the impugned order, there is a reference to the complaint dated 31.12.2014, however, the said complaint was not referred to in the show-cause notice and if the impugned order is passed on account of the subsequent complaint, the entire show-cause notice goes and in such a case, earlier show-cause notice has to be redrafted. With the above submission, it is submitted that the petitioner was not afforded fair and reasonable opportunity to put forth his explanation and the impugned proceedings are liable to be quashed.

4. The learned Special Government Pleader appearing for the respondents 1 and 2 submitted that adequate opportunity was given to the petitioner and in spite of the same, the petitioner has not availed the opportunity.

5. It is submitted by the learned counsel for the fifth respondent that several complaints have been lodged and after due

enquiry and report of the Block Development Officer and the Assistant Director of Panchayats, action was initiated, show-cause notice was issued and since the petitioner did not submit his reply, the impugned order has been passed.

6. After hearing the learned counsel for the parties and perusing the entire materials placed on record, it is seen that the petitioner did not avail the opportunity granted by the first respondent and he did not submit his reply to the show-cause notice in time. Therefore, the first respondent was justified in passing the impugned order, since there was no reply to the show-cause notice. The answer given by the petitioner before this Court for not submitting his reply is that the records were taken away by the Assistant Director of Panchayats and he was handicapped from submitting the reply. However, such a stand has been taken for the first time before this Court and there is no such request made by the petitioner to the Assistant Director of Panchayat requesting permission to peruse the records nor there was any request made to the District Collector to extend the time to submit his reply to the show-cause notice. Therefore, this Court of the clear view that the reason now assigned by the petitioner is clearly an after-thought. Therefore, it has to be rejected.

7. However, these issues need not gone into at this stage, since it is a case, where, the petitioner did not avail the opportunity and did not submit his reply to the show-cause notice in time. This will not foreclose the rights of the petitioner from seeking remedy in terms of the Tamil Nadu Panchayat Act. The co-signatories of the Panchayat cheques shall be the President and Vice-President and only in the absence of the President or the Vice-President or for other reasons, the power can be granted to some other Ward Member. However, even while granting such power, it has to be held to be a temporary nature. Therefore, the petitioner need not have apprehension in the first respondent revoking the cheque signing power, since, the impugned order is only an order operating for a temporary length of time, by which, the petitioner has been denuded the power of signing the cheques as a co-signatory.

8. In the light of the above discussion, no grounds have been made out to quash the impugned order. However, it is seen that the petitioner has not submitted his reply to the allegations to the 17 charges that have been framed against him. The learned counsel for the petitioner submitted that there are sufficient materials on record to the petitioner to establish that all the 17 charges are without any basis. In the light of the stand taken by the petitioner, there will be a direction to the petitioner to submit his explanation to the show-cause notice dated 14.11.2014 clearly setting out his case in respect of each and every charge. If the petitioner wants perusal of certain records from the office of the second

respondent, it is open to the petitioner to seek for perusal of records and then submit the explanation. After the explanation is submitted by the petitioner, the first respondent shall conduct an enquiry into the matter and to hear the petitioner in person and after affording fair and effective opportunity take a decision in the matter within a period of eight weeks from the date on which, the petitioner submitted his explanation.

9. Accordingly, this writ petition stands disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Panchayat-cum-District Collector,
Thiruvannamalai District.
2. The Assistant Director (Village Panchayats),
Thiruvannamalai.
3. The Block Development Officer (Village Panchayats)
Thurinjjapuram.
Thiruvannamalai District.
4. The Branch Manager,
Bank of Baroda,
kamalaputtur.

1 cc to Mr.S.N.Ravichandran, ,Advocate, SR.No.13621
1 cc to Mr. M.Dhandapani,Advocate, SR.No.13094
1 cc to Government Pleader,Sr.No13268

W.P.NO.2131 OF 2015

rsi(co)
pmk.20.3.2015