

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2015

CORAM

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.No.32218 of 2015

A.Faritha Begum

...Petitioner

-Vs-

- 1 The Inspector of Panchayats /
District Collector Villupuram District
Villupuram.
- 2 The Assistant Director of
Panchayats Villupuram.
- 3 The Block Development Officer
(Village Panchayats) Kanai Union Kanai
Post Villupuram Taluk and District. ...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the First Respondent relating to the orders in (i) Pro.Na.Ka.No. A3/419/2015 dated 20.09.2015 and (ii) Pro.Na.Ka.No. A3/419/2015 dated 20.09.2015 to quash the same and to issue consequential direction to the First Respondent to restore the cheque drawing power of the Petitioner.

For Petitioner : Mr.A.R.L.Sundaresan senior counsel
for K.Govindaraj

For Respondents: Mr. M.DigVijayaPandian AGP

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O R D E R

Heard the learned senior counsel appearing for the petitioner and Mr.Dig Vijaya Pandian, learned Additional Government Pleader appearing on behalf of respondents and perused the materials placed on record including the counter affidavit filed by first respondent.

2. With the consent of parties on either side, the writ petition itself is taken up for final disposal.

3. The petitioner is a president of panchayat and the orders impugned in this writ petition both dated 20.9.2015 are u/s 203 and 205 of Tamil Nadu Panchayats Act, 1994 respectively. The primary ground on which the petitioner has challenged the impugned proceedings is by contending that without considering the petitioner's explanation, orders have been passed to proceed with the matter u/s 205 of Act and simultaneously to divest the petitioner of the cheque signing power.

4. The learned senior counsel submitted that the petitioner was under the earnest belief that the explanation has to be sent through proper channel and therefore, the same was forwarded through proper channel and she is also in possession of postal acknowledgment card and therefore, respondent ought to have considered the explanation and thereafter, only taken a decision in the matter. On a perusal of the counter affidavit filed by the first respondent, more particularly, paragraph 9, it is seen that the receipt of explanation is not disputed. But it is stated to have been received only on 15.10.2015 and there is a further averment that the petitioner somehow managed to obtain the acknowledgment card from the third respondent. However, it is not known as to how such a statement has been made in the counter affidavit nor there is any supportive documents to substantiate the same.

5. The petitioner being an elected representative of the local body, when she is divested of such elected office, she should be given full and effective opportunity and therefore, even assuming there is a delay in submission of the explanation, considering the fact that it was on account of the mandate of the local panchayat that she is in office as on date, the matter has to be dealt with great circumspection.

6. The learned Government Pleader submitted that there are serious allegations against the petitioner and 13 charges have been framed against the petitioner and substantial amount of money has been misappropriated. If that is the case, it is all the more necessary that the petitioner should not be proceeded ex parte and she should have been afforded an opportunity so as to put forth her contentions.

7. However, this analogy should not be applied to the proceedings initiated u/s 203 of the Act by which cheque signing power has been temporarily divested and vested with the Block Development Officer, (Village Panchayat) and therefore, this Court is not inclined to restore the cheque signing power in favour of the petitioner and the power shall continue with the Block Development Officer (Village Panchayat) till a decision is taken on the proceedings initiated u/s 205 of the Act.

8. In the light of the above, without setting aside the proceedings dated 20.09.2015, there will be a direction to the first respondent to consider the explanation of the petitioner dated 13.10.2015 which has been filed as an annexure to the counter affidavit filed by the first respondent, conduct an enquiry into the matter, affording an opportunity to the petitioner and proceed further in accordance with law.

9. With the above direction, Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

True Copy

Sub Assistant Registrar

To

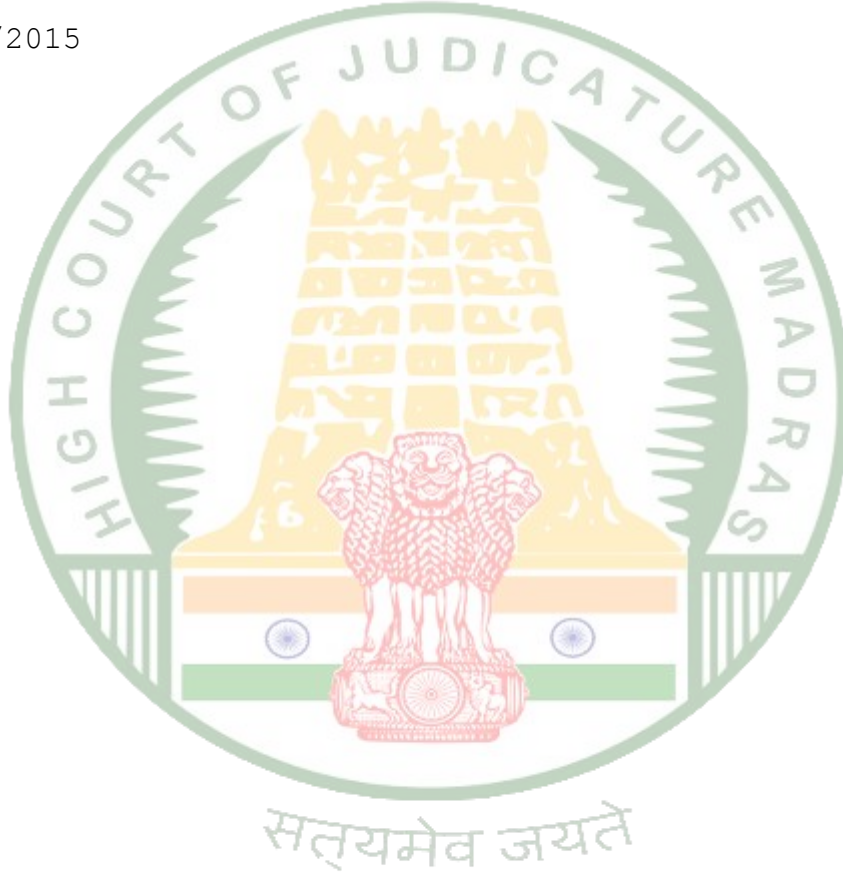
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+1cc to The Government Pleader, Sr.60105
+1cc to Mr.K.Govindaraj, Advocate Sr.60337

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msm[co]
srg 20/11/2015



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