

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.12.2015

CORAM

THE HON'BLE Mr. JUSTICE T.S.SIVAGNANAM

W.P.No.33027 of 2015 &

M.P.No.1 of 2015

K.Muniappan

[PETITIONER]

Vs

1 The Tahsildhar

Thiruvallur Taluk, Thiruvallur.

2 The Inspector of Panchayats cum
District Collector

Thiruvallur District, Thiruvallur [RESPONDENTS]

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for all the records relating to the impugned communication Na.Ka. No. 10965/2015/A-1 dated 01.10.2015 issued by the Tahsildhar Thiruvallur, the First Respondent herein and quash the same

For Petitioners ... Mr.J.Thilagaraj

For Respondents ... Mr.R.Vijayakumar
Addl.Govt.Pleader

O R D E R

With the consent of the learned counsel on either side, the writ petition is taken up for final disposal.

2. Heard Mr.J.Thilagaraj, learned Counsel appearing for the petitioner and Mr.R.Vijayakumar, learned Additional Government Pleader appearing for the respondents.

3.The petitioner is an elected Vice President of the Senji Village Panchayat. The petitioner was sent a communication dated 12.05.2015, directing him to appear for an enquiry on the very same day at 11.00 a.m. In the said notice it is alleged that the

petitioner in the capacity of Vice President had abetted the illegalities committed by the President of the Panchayat.

4.The specific case of the petitioner is that the complaint against him was not forwarded and no opportunity was given to him to show cause against the allegations made against him and without following the proper procedure contemplated under law, notice was issued by the first respondent on 12.5.2015, fixing the enquiry on the very same day. Furthermore, on the said date i.e. on 12.5.2015, a resolution was passed removing the petitioner from the post of Vice President. The petitioner challenged the said resolution by filing a Writ Petition in W.P.No.14818 of 2015. In the said Writ Petition, the petitioner has raised several grounds and contended that the copy of the complaint given by the Members calling for 'no confidence' against him was not served, no explanation was sought for and no 15 days clear notice was given and the entire proceedings are in utter violation of section 211 of the Tamil Nadu Panchayat Act, 1994. Further, it was contended that the procedure adopted was in total violation of the principles of natural justice.

5.This Court on being prima facie satisfied that the petitioner has made out a case, by an order dated 20.05.2015, granted an order of interim stay of the entire proceedings, initially for a period of three weeks. It is stated that the said Writ Petition is still pending. In the meantime, the petitioner is served with another notice dated 01.10.2015, issued by the first respondent, calling upon the petitioner to appear for an enquiry on 20.06.2015 at 4.00 p.m.

6.It is evidently clear that the impugned notice dated 01.10.2015, is in total violation of principles of natural justice and the petitioner has not been afforded any opportunity before being called for an enquiry and further more, the proceeding of the second respondent dated 24.7.2015, which has been referred to in the impugned notice has not been communicated to the petitioner. Thus, even assuming that there is some allegations against the petitioner and there is a move for bringing 'no confidence' motion, the same has to be done in accordance with law and not in the manner as has been done in the instance case. Hence, the impugned notice dated 01.10.2015 is held to be illegal and contrary to the provisions of the Act.

7. Accordingly, the Writ Petition is allowed and the impugned notice is quashed. However, it is always open to the respondents to proceed against the petitioner, after following the procedure contemplated under the Act. It is made clear that the result of this Writ Petition will have no bearing on the earlier Writ Petition filed by the petitioner in W.P.No.14818 of 2015, which is pending. No costs. Consequently, connected Miscellaneous Petition is closed.

rpa

sd/-

Assistant Registrar (Judicial)

/True Copy/

Sub-Assistant Registrar

To

- 1 The Tahsildhar
Thiruvallur Taluk,
Thiruvallur.
- 2 The Inspector of Panchayats cum
District Collector
Thiruvallur District,
Thiruvallur.

+Two CC Mr.J.Thilagaraj, Advocate in SR.NO. 62286

+One CC Government Pledar, High Court, SR.NO. 65715

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Tm [Co]
sd 15/12/2015