



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDERS RESERVED ON:19.08.2015

ORDERS DELIVERED ON:28.08.2015

CORAM

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P. (MD) No.19001 of 2014

and

M.P. (MD) .Nos.1 to 3 of 2014

C.Elamurugan ... Petitioner

Vs.

- 1.The Chief Secretary to the Government,
Government of Tamil Nadu,
Fort.St.George, Chennai.
- 2.The Principal Secretary to Government
Government of Tamil Nadu,
Rural Development and Panchayat Raj
Department,
Fort.St.George, Chennai.
- 3.The Inspector of Panchayats
and the District Collector,
Dindigul District.
- 4.The Block Development Officer,
(Village Panchayat)
Guziliyamparai Panchayat Union,
Guziliyamparai, Vedasandur Taluk,
Dindigul District.
- 5.The President,
Alambadi Village Panchayat,
Guziliyamparai Panchayat Union,
Vedasandur Taluk,
Dindigul District. ... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.3970/2013/A4 dated 28.10.2014 passed by the third respondent and quash the same as illegal, contrary to the law and



consequently direct the second respondent to submit the Expert Committee report to this Court in a month time.

For Petitioner : M/s.K.N.Selva Bharathi

For R.1 to 4 : Mr.M.Rajarajan
Government Advocate

For R.5 : M/s.R.Charan

ORDER

This Writ Petition has been filed praying for a Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order in Na.Ka.No.3970/2013/A4 dated 28.10.2014 passed by the third respondent and quash the same as illegal, contrary to the law and consequently direct the second respondent to submit the Expert Committee report to this Court in a month time. By the said order, the petitioner's request to take action against the fifth respondent, in view of the financial irregularities committed by her, had been negated by the Inspector of Panchayat for want of sufficient materials.

2. The short facts for deciding this Writ Petition is that it is alleged by the petitioner that the fifth respondent herein, has siphoned off the funds belonging to the Panchayat under the guise of doing welfare measures to the said Panchayat. It is the further case of the petitioner that armed with the information furnished by the Tamil Nadu State Information Commission with regard to the various developmental activities that had taken place in the Alambadi Village Panchayat, while the fifth respondent is in office, the petitioner had unearthed various financial irregularities in the said Panchayat and sent a compliant to the Inspector of Panchayats / District Collector. Since there was no effective action on the part of the Inspector of Panchayats / District Collector, incessantly, the petitioner filed Writ Petitions after Writ Petitions, namely, W.P.(MD).No.588 of 2013 and W.P.(MD).No.4608 of 2014 for issuing appropriate directions to the authorities concerned. Subsequently, since the orders passed by this Court had not been complied with, the petitioner had also moved Contempt Petitions in Cont.P(md).No.878 of 2014 and 878 of 2014 to gear up the governmental authorities to get such information in order to prove his case against the fifth respondent herein. Unfortunately, this time too, though the petitioner has produced the relevant documents, his request for taking action against the fifth respondent, was negated by the first respondent forcing the petitioner to once again knock the doors of this Court to quash the order of the first respondent impugned in this Writ Petition.

3. The Inspector of Panchayat / District Collector has filed a detailed counter affidavit in which he chronologically listed the dates and events about the information given to the

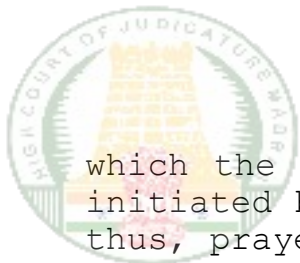


petitioner. Further, he submitted that the Alambadi Village Panchayat's accounts have all been done upto 2012-2013 in accordance with the Rules governing the procedure for conduct of audit and action on audit objections. Either in the audit reports of Village Panchayat auditor, namely, the Deputy Block Development Officer (Audit) or in the Test Audit Report of the Assistant Director Rural Development (Audit), there is no mention of any grave irregularities as alleged by the petitioner. Even in the Local Fund Audit Department also there was no mentioning of any grave irregularities. Hence, the alleged allegation of the petitioner is not substantiated by concrete evidence and liable to be dismissed. A personal enquiry was given to the petitioner on 01.09.2014. Neither any concrete evidence to substantiate the alleged allegations of the petitioners nor there was any grave audit report against the fifth respondent causing financial loss to the said Panchayat that was pointed out and therefore, the request to suspend the fifth respondent is unjust.

3.1. An additional counter affidavit has also been filed by the Inspector of Panchayats/ District Collector *inter alia* stating that the order in W.P.(MD).No.4602 of 2014 dated 07.04.2014 and the order made in Contempt Petition(MD).No.878/2014 dated 22.08.2014 have been complied with by the respondent herein. More particularly, both parties were issued with separate notice and on the specified days, both submitted their written explanations and personal enquiry was also conducted. A detailed order has been passed by him vide Na.Ka.No.3970/2013/A4 dated 28.10.2014. Therefore, the request for appointment of a Special Expert Committee is not at all necessary and it is liable to be dismissed.

4. The learned counsel for the petitioner submitted that from the affidavit filed by the petitioner, it is clear that the petitioner has run from pillar to post to dig out the financial irregularities which happened in the Panchayat. He further submitted that the petitioner was forced to get information through the Right to Information Act for bringing out the real truth before this Court. In spite of oral and documentary evidence produced before the Inspector of Panchayats / District Collector, he has failed to look upon the same. The allegations made by the respondents are totally denied by the petitioner. In view of grave misdeeds, it is very much essential to appoint a Special Expert Committee to go into the various aspects of the financial irregularities. Hence, he prayed for the quashing of impugned order passed by the Inspector of Panchayats / District Collector herein.

5. The learned Government Advocate for the third respondent submitted that the governmental authorities have completely gone into the allegations made by the petitioner wherein they could not find an iota of evidence against the fifth respondent herein. Further, this Writ Petition is filed out of personal motive for



which the third respondent cannot be made as a party. The action initiated by the third respondent so far is well within the law and thus, prayed for the dismissal of this Writ Petition.

6. Similarly, the learned counsel for the fifth respondent submitted that the allegations against her are frivolous and an unfounded one. Since the petitioner has got election motive, with an ulterior motive, lot of complaints are being sent to the first respondent, without any rhyme or reason. All those complaints were properly enquired and report has been submitted in this regard. None of the reports have gone against the petitioner. However, due to the attitude of the petitioner, the fifth respondent is unable to concentrate on the welfare activities of the Panchayat. Therefore, she prayed for the dismissal of this Writ Petition.

7. I heard the submissions made on either side and perused the materials available on record.

8. It is seen that this case has got chequered history. According to the petitioner there are financial irregularities in the matter of handling of finance in the fifth respondent Panchayat's Union. In order to prove those allegations, the petitioner incessantly obtained information from various authorities concerned by approaching this Court. As per direction of this Court, he was given an opportunity of hearing. According to the third respondent, in the years 2011-2012 and 2012-2013, the said Panchayat had been audited and audit objections have been done in accordance with the Rules. Either in the audit reports of Village Panchayat or in test audit report of Assistant Director of Rural Development (Audit), there is no mention of any grave irregularities as alleged by the petitioner. Further, even in the Local Fund Audit Department Audit also, there was no mentioning of any grave irregularities or violation of rules with regard to the said Panchayat. Hence, the alleged allegation is not substantiated by concrete evidence. Eventually, the petitioner could not prove the allegations as against the fifth respondent herein. As the third respondent, who is the Inspector of Panchayats, has passed orders based on the records available, more particularly, in tune with the Audit Report of the said Panchayat and the report of Deputy Block Development Officer (Audit) and Block Development Officer, in my considered opinion, there is no necessity to appoint an Expert Committee to go into the allegations as against the fifth respondent as alleged by the petitioner in this Writ Petition. Further, it cannot be said that the petitioner has personally affected by order impugned in this Writ Petition. The materials on record would show that sufficient opportunity was given to the petitioner and an enquiry was also conducted by the official respondents and the ultimately, the Inspector of Panchayat has come to conclusion that no substantial materials have been placed as against the fifth respondent herein to consider the claim of the petitioner. Therefore, there is no need to entertain the prayer made by the petitioner in the present Writ Petition.



In the light of the above, this Writ Petition lacks merits and it is liable to be dismissed. Accordingly, the same is dismissed. No costs, consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Chief Secretary to the Government,
Government of Tamil Nadu,
Fort.St.George, Chennai.
- 2.The Principal Secretary to Government
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Rural Development and Panchayat Raj Department,
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- 3.The Inspector of Panchayats
and the District Collector,
Dindigul District.
- 4.The Block Development Officer,
(Village Panchayat)
Guziliyamparai Panchayat Union,
Guziliyamparai, Vendasandur Taluk,
Dindigul District.
- 5.The President,
Alambadi Village Panchayat,
Guziliyamparai Panchayat Union,
Vendasandur Taluk,
Dindigul District.

+1cc to Mr.K.Selvabharathi,Advocate Sr.No. 49869
+1cc to Mr.R.Saravanan,Advocate Sr.No.49777
+1cc to Spl.Government Pleader Sr.No.50040

Ssm
AA/03.09.2015/5p-9c

Pre-delivery order made in
W.P. (MD)No.19001 of 2014

28.08.2015