

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated :01.04.2016

Coram

The Hon'ble Mr.Justice T.S.Sivagnanam

Writ Petition No.13940 of 2015
and
M.P.No.1 of 2015

K.A.K.Jiyaudeen

...Petitioner

Vs.

1. The District Collector cum
Inspector of Panchayat,
Tiruvarur District, Tiruvarur.

2. The Tahsildar,
Needamangalam,
Tiruvarur District,
Tiruvarur.

3. The Block Development Officer,
Needamangalam Panchayat Union,
Tiruvarur District,
Tiruvarur.

4. The President,
Podhakudi Village Panchayat,
Podhakudi -613 103,
Tiruvarur District, Tiruvarur.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari to call for records of the first respondent vide impugned order Na.Ka.No.1082/2013/A2/AD (P) dated Nil April, 2015, signed on 20.04.2015, and to quash the same as illegal and without jurisdiction.

For Petitioner : Mr.L.SM.Hasan Fizal
for Mr.I.Paranthaman

For Respondents 1 -3 : Mr.R.Rajeswaran
Special Government Pleader

For Respondent -4 : No appearance

O R D E R

The petitioner has filed this Writ Petition, seeking to quash the impugned order of the first respondent.

2. The petitioner is an elected Vice President of the Village Panchayat, and by the impugned order, he has been removed from the elected Office of the Panchayat, alleging that motion of non confidence has been passed against him, in the meeting held on 11.03.2015, in which eight members participated.

3. Though notice was served on the fourth respondent/President of Panchayat, he did not choose to appear in person, or through counsel to represent on his behalf, and as on date, no counter affidavit has been filed by the respondents 1 to 3. Therefore, this Court does not propose to adjourn the matter any further, as the only issue, which falls consideration is as to whether the procedures contemplated under the Tamil Nadu Panchayats Act, 1994 (hereinafter, referred to as 'the Act') have been followed before passing the impugned order.

4. The procedures, which are required to be followed, while considering motion of non confidence against the Vice President of Village Panchayat has been set out under Section 211 of the Act. Sub section (2) of Section 211 states that, written notice of intention to make the motion, signed by members of the Village Panchayat not less in number than (three fifth) of the sanctioned strength of the Village Panchayat, together with a copy of the motion, which is proposed to be made and a written statement of the charges against the Vice President, shall be delivered in person to the Tahsildar of the Taluk by any two of the members of the Village Panchayat signing the notice. Sub section (3) mandates that a copy of the statement of charges along with the notice of the meeting should be delivered to the Vice President concerned by the Tahsildar, so as to give him an opportunity to submit reply to the charges. In terms of sub section 4, the Tahsildar, after the expiry of the notice period, which has been issued under sub section (3), convene a meeting for consideration of the motion, at the office of the Village Panchayat, for which purpose, he is required to give members, a notice, not less than fifteen clearly days of such meeting, in terms of subsection (5) of Section 211.

5. In the instant case, removal of the petitioner, is said to have been considered in the meeting convened by the Tahsildar on 11.03.2015, however, agenda for the meeting, as could be seen from the notice issued by the Tahsildar, dated 25.02.2015, is for some other purpose. In fact, it is for the purpose to consider resignation of eight members. Those eight persons, whose resignation should have been considered in the

meeting held on 11.03.2015, have shown to have participated in the meeting and considered the motion of non confidence against the petitioner. Thus, the procedure contemplated under Section 211 of the Act has been thoroughly violated, and consequently, the impugned order is held to be bad in law. Accordingly, the Writ Petition is allowed and the impugned order is quashed. However, this order will not preclude the respondents from initiating fresh action against the petitioner in accordance with law. No costs. Consequently, connected Miscellaneous Petition is closed.

-s/d-

Assistant Registrar

True Copy

Sub-Assistant Registrar

To

1. The District Collector cum Inspector of Panchayat, Tiruvarur District, Tiruvarur.
2. The Tahsildar, Needamangalam, Tiruvarur District, Tiruvarur.
3. The Block Development Officer, Needamangalam Panchayat Union, Tiruvarur District, Tiruvarur.
4. The President, Podhakudi Village Panchayat, Podhakudi -613 103, Tiruvarur District, Tiruvarur.

+1 cc to Government Pleader sr.20506

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