

In the High Court of Judicature at Madras

Dated :: 15.04.2016

Coram ::

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

Writ Petition No: 22968 of 2014

A. Ranganathan
President
Kovilampakkam Panchayat
Kovilampakkam
Kancheepuram District.

... Petitioner

-vs-

1. The District Collector
Kancheepuram District.
Kancheepuram.
2. The Assistant Director (Panchayats)
Kancheepuram District. Kancheepuram.
3. Block Development Officer
(Village Panchayats)
St. Thomas Mount Panchayat Union
St. Thomas Mount, Chennai.
4. Mr. ER. C. Manimaran
No: 4/3 Kousalya Complex
S. Kolathur Main Road
Kovilampakkam Chennai - 600 117.

... Respondents

(R.4 & R.5 impleaded as per order dt.17.12.2015
passed by T.S.S.J. In M.P. No: 1 of 2015 in W.P.
No: 22968 of 2014)

R4 deleted vide order dt 15.4.2016 by TSSJ.

Writ Petition under Article 226 of the Constitution of India praying for issuance of a writ of certiorari to call for the records of the 1st respondent in Na. Ka. 1943/2014/A7/Village Panchayats dated 11.08.2014 and quash the same.

For petitioner	::	Mr. M. Dhandapani
For resp. 1 & 2	::	Mr. R. Rajeswaran Special Government Pleader
For 5 th respondent	::	Mr. P. Srinivas

.. ..

O R D E R

Heard Mr. M. Dhandapani learned counsel appearing for the petitioner; Mr. R. Rajeswaran learned Special Government Pleader appearing for the respondents 1 and 2 and Mr. P. Srinivas learned counsel appearing for the 5th respondent. Considering the facts and circumstances of the case, the 4th respondent is not a necessary party to the writ petition in the light of the order which the Court proposes to pass. Hence the 4th respondent is deleted from the array of parties and the cause title to be suitably amended prior to this order being dealt with.

2. The petitioner is an elected President of the Kovilampakkam Panchayat in Kancheepuram District and the challenge in this writ petition is to a notice issued by the 1st respondent, Inspector of Panchayats, dated 11.08.2014 proposing to initiate action against the petitioner under Section 205 of the Tamil Nadu Panchayats Act 1994 (the Act). The only ground on which the impugned proceeding has been challenged by the petitioner is that the same is without jurisdiction since it does not fall within any one of the contingencies contemplated under clause (a) and (b) of Sub Section (1) of Section 205 of the Act. The challenge to the impugned proceedings being only on this technical ground, the merits of the allegations made in the proceedings namely, the charges which have been alleged against the petitioner are not gone into.

3. By virtue of Sub Section (1) of Section 205 of the Act, the Inspector of Panchayats viz. The District Collector of the concerned District is entitled to initiate proceedings for removal of an elected President of the Village Panchayat on his own motion or on a representation in writing signed by not less than two third of the sanctioned strength of the Village Panchayat containing a statement of charges against the President and presented in person to the Inspector by any two of the members of the Village Panchayat. If the Inspector of Panchayat is to exercise his power under Section 205 (1) (a) i.e. exercising suo moto power, he has to be satisfied that the President of the Panchayat has wilfully omitted and refused to carry out or disobeyed any provision of the Act, Rules, By-laws, Regulations or lawful orders made or issued under the Act or abuses any power vested in him, then he may be issued with a notice in writing requiring the proceedings to offer his explanation within a date specified with respect to his acts, omission or commission mentioned in the notice. Thus the statute mandates that prior to issuance of a notice under Sub Section (1) of Section 205 of the Act, the Collector should be satisfied that the elected President of the Panchayat has wilfully omitted or refused to carry out or disobeyed the provisions of the statute or abused any power vested with him. The power so exercised by the District Collector could be called

upon to be exercised if a representation is given in writing signed by not less than two third of the sanctioned strength of the Village Panchayat containing the statement of charge against the President and such representation to be presented in person before the Inspector of Panchayat by any two members of the Village Panchayat. Thus, the representation as contemplated under clause (b) of Section 205 (1) of the Act should be in writing signed by not less than two third of the sanctioned strength of the Village Panchayat and it should contain the statement of charges against the President of the Panchayat and it has to be presented in person to the Inspector by two members of the Village Panchayat.

4. A perusal of the impugned notice shows that it is not a suo moto action under Section 205 (1) (a) of the Act as it refers to a complaint given by the 4th respondent E. Manimaran dated 10.07.2013. The preamble of the impugned notice also refers to the complaint dated 10.07.2014 of C. Manimaran. Therefore, it is an individual complaint of a Panchayat member and it is not by two third members of the Village Panchayat. That apart, the complaint has not been presented by two members of the Village Panchayat. Hence, on that ground the impugned notice is held to be defective and accordingly liable to be set aside.

5. In the light of the above, the writ petition is allowed. The impugned notice is set aside giving liberty to the District Collector to consider the allegations made by the 4th respondent C. Manimaran in his complaint dated 10.07.2014 and call for necessary particulars in that regard and if the District Collector is satisfied that the petitioner has wilfully omitted or refused to carry out or disobey any provisions of the Act, rules, by-laws and regulations or any orders issued under the Act or he has abused any power vested with him, then the District Collector may issue fresh notice and proceed in accordance with law. It is made clear that this Court has not gone into any of the allegations made in the impugned notice and the impugned notice has been set aside only on the technical ground as indicated above leaving it open to the 1st respondent to proceed in accordance with law as indicated above. Connected miscellaneous petition is closed. There shall be no orders as to the costs.

gp

s/d-

Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

To

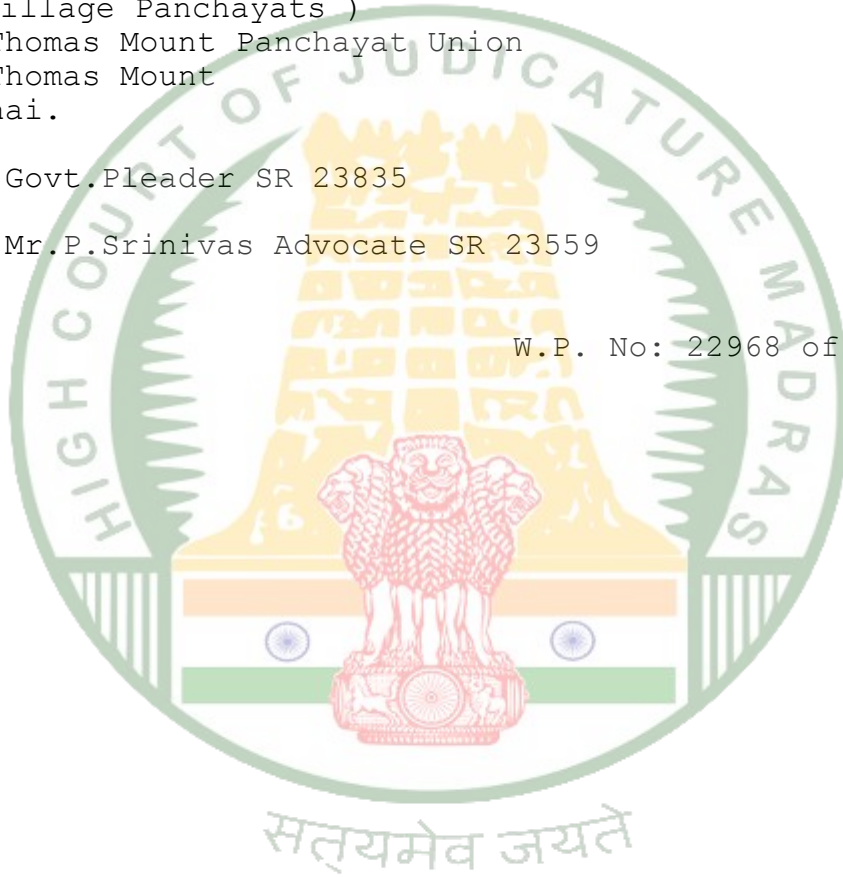
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+ 1 cc to Govt.Pleader SR 23835

+ 1 cc to Mr.P.Srinivas Advocate SR 23559

sai(co)
prk3/5

W.P. No: 22968 of 20146



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