

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 18.04.2013

CORAM:

THE HONOURABLE MR.JUSTICE K.VENKATARAMAN

W.P.No.21362 of 2009

and M.P.Nos.1 of 2009 & 1 of 2011 & 2 of 2011

K.Lakshmi Petitioner

vs.

1. State of Tamilnadu
represented by Secretary to Government,
Rural Development Department,
Fort St.George, Chennai-600 009.

2. The Inspector of Panchayats-cum-
District Collector,
Namakkal. ... Respondents

Writ petition has been filed under Article 226 of the Constitution of India seeking a Writ of Certiorari, calling for the entire records relating to the proceedings in Na.Ka.0215/2009/00.Ni.3 dated 30.09.2009 from the file of the 1st respondent, quash the same.

For Petitioner : Mr.D.Shivakumaran

For Respondents : Mrs.P.Kavitha
Government Advocate

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The petitioner has come up with the present writ petition challenging the impugned order passed by the 2nd respondent dated 30.09.2009, an order made under Section 205 of the Tamil Nadu Panchayats Act,1994(hereinafter called the Act).

2. The admitted facts are that the petitioner is the President of Kakaveri Panchayat Union, By an order of the second respondent, dated 16.06.2009, the petitioner was removed from the said post. Challenging the said order, the petitioner has moved the first respondent by filing a revision, as required under sub-section 12 of Section 205 of the Act. The said revision was filed on 07.07.2009. The petitioner sought for an interim stay of the order of the second respondent removing the petitioner from the post of President of the Panchayat Union. However, the application of the petitioner was dismissed on 23.07.2009. The petitioner, therefore, has approached this Court by filing a writ petition in W.P.No.15033 of 2009. This Court, by an order dated 31.07.2009, granted interim stay of the order passed by the second respondent. The said writ petition was filed challenging the refusal made by the first respondent to grant stay. Later, the said writ petition was disposed of on 07.10.2009, directing the first respondent to dispose of the revision filed by the petitioner, dated 07.07.2009.

3. In the meanwhile, the second respondent has withdrawn the earlier order of removing the petitioner from the post of President viz., an order dated 16.06.2009, by his order dated 30.09.2009. That order is under challenge in the present writ petition.

4. A counter affidavit has been filed on behalf of the second respondent. The sum and substance of the counter affidavit is that there is no infirmity in the order passed by the second respondent.

5. I am not dealing with the entire counter affidavit for the limited order to be passed hereunder.

6. After hearing the arguments of the learned counsel for the petitioner as well as the learned Government Advocate appearing for the respondents, the following facts emerges.

a) The petitioner who was elected as a President of the Kakaveri Panchayat Union in the year 2006 was removed from the said post by an order dated 16.06.2009 of the second respondent.

b) Challenging the same, the petitioner preferred a revision before the first respondent on 07.07.2009. Along with the revision, the petitioner has also filed an application for interim stay which was dismissed by the first respondent non 23.07.2009. Challenging the same, the petitioner preferred a writ petition before this Court in W.P.No.15033 of 2009. This Court, granted an interim order staying the operation of the second respondent dated 16.06.2009 removing the petitioner from the post of President of the said

Panchayat. The said interim stay was granted on 31.7.2009. Thereafter, the writ petition itself was disposed of on 07.10.2009 with a direction to the first respondent to dispose of the revision filed by the petitioner challenging the order of the second respondent. In the meanwhile, the revision filed by the petitioner was disposed of by the first respondent on 16.9.2009 remitting the matter back to the second respondent holding that the second respondent has not properly passed an order under Section 205 of the Act. Thereafter, the present impugned order which is under challenge dated 30.09.2009 was passed by the 2nd respondent.

7. The strange aspect of the case is that when the matter is seized of by this Court in a writ petition in W.P.No.15033 of 2009, the first respondent has passed an order on 16.9.2009 allowing the revision filed by the petitioner challenging the order of removal of the petitioner from the post of President passed by the second respondent. While allowing the revision, the first respondent remitted the matter to the second respondent to pass orders afresh. When that order came to be passed on 16.09.2009, as stated already, the writ petition filed by the petitioner was pending before this Court and further interim stay of the order of the second respondent was in force. It has not been brought to the notice of this Court about the disposal of the revision by the first respondent. Therefore, this Court, by order dated 07.10.2009, directed the first respondent to dispose of the revision which was already disposed of on 16.09.2009 itself.

8. That apart, the second respondent passed an order on 30.09.2009 which is under challenge in this writ petition when the writ petition filed by the petitioner was kept pending before this Court and an order of interim stay was granted by this Court. The second respondent ought not to have passed an order on 30.09.2009 when the writ petition filed by the petitioner was kept pending before this Court. Therefore, this Court is constrained to say that the respondents 1 and 2 have passed an order on 16.09.2009 and 30.09.2009 respectively without any reference to the writ petition filed before this Court. Further, when the interim stay was in force, neither the first respondent nor the second respondent should have passed an order on 16.09.2009 and 30.09.2009 respectively. However, this Court is unable to set aside the order dated 30.09.2009 of the second respondent for the sole reason that the second respondent passed an order on 30.09.2009 removing the petitioner from the post of President of Panchayat and now, the term of the petitioner was already over.

9. Therefore, I am of the considered view that the writ petition can be given a quietus by closing the same. However, the order passed by the second respondent on 30.09.2009 shall not be put against the petitioner in any other proceedings. Accordingly, the

writ petition is closed. No costs. Consequently connected miscellaneous petitions are closed.

Sd/-
Asst. Registrar

//true copy//

Sub Asst.Registrar

vsi

To

1. The Secretary to Government,
Rural Development Department,
Fort St.George, Chennai-600 009.

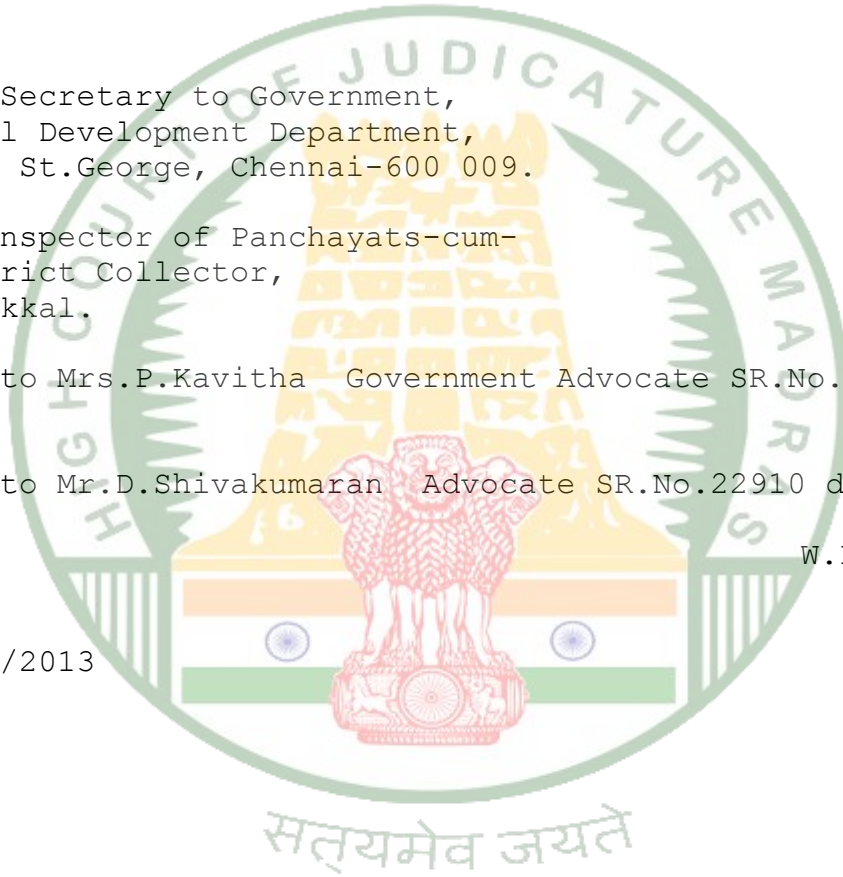
2. The Inspector of Panchayats-cum-
District Collector,
Namakkal.

+ 1 CC. to Mrs.P.Kavitha Government Advocate SR.No.23087 dated
19/4/13.

+ 1 CC. to Mr.D.Shivakumaran Advocate SR.No.22910 dated 18/4/13.

W.P.No.21362 of 2009

GJ(CO)
VS 14/05/2013



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