

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.04.2016

C O R A M

THE HONOURABLE MR. JUSTICE T.S.SIVAGNANAM

W.P.NO.2070 OF 2016

AND

WMP NO.1764 OF 2016

G.Ramesh Petitioner

Vs.

1.The District Collector cum
Inspector of Panchayat
Collectorate
Vellore - 632 009.

2.The Assistant Director (Panchayats)
Sathuvacherry,
Vellore District.

3.Krishnaveni Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order of the first respondent bearing Na.Ka.No.A6/2672/2015, dated 18.12.2015 to quash the same and to further direct the respondents to permit the petitioner to sign the cheques of Nameli Village Panchayat along with the President of Nameli Village Panchayat in accordance with Section 188(3) of the Tamil Nadu Panchayats Act.

For Petitioner : Mr.A.Jenasenan

For Respondents

1 and 2 : Mr.R.Rajeswaran

Special Government Pleader

O R D E R

Heard Mr.A.Jenasenan, learned counsel for the petitioner and Mr.R.Rajeswaran, learned Special Government Pleader, who accepts notice for the respondents 1 and 2.

2.The petitioner has filed this writ petition challenging the order passed by the first respondent dated 18.12.2015 and for a consequential direction to the respondents to permit him to sign the cheques of Nameli Village Panchayat along with the President of Nameli Village Panchayat, in accordance with Section 188(3) of the Tamil Nadu Panchayats Act.

3.The petitioner is an elected Member of the Nameli Village Panchayat, Arakkonam Taluk, Vellore District and was subsequently elected as Vice President of the said Village Panchayat. The order impugned in this writ petition is an order diverging the petitioner's cheque signing power as a co-signatory to the cheques issued by the Village Panchayat along with the President of the Panchayat. In fact, the petitioner has lodged a complaint against the President of the Panchayat for mishandling of the funds of the Panchayat. But however, the consequences reflected on the petitioner and his cheque signing power has been removed. This Court is not inclined to go into the factual aspects, as the preliminary ground on which the impugned order is challenged is on the ground of violation of the procedure contemplated under the law.

4.The learned counsel for the petitioner has referred to a decision of the Honourable First Bench of this Court in PUGAZHENDRAN, PRESIDENT, BRAMMAPURAM VILLAGE PANCHAYAT VS. B.G. BALU [2005 (1) CTC 545] and the order passed by this Court in J.SARASWARATHI VS. THE INSPECTOR OF PANCHAYAT, DHARMAPURI AND OTHERS in W.P.No.19609 of 2014 dated 23.03.2015.

5.Admittedly, the District Collector has not issued any show cause notice to the petitioner and the show cause notice issued by the second respondent has been the basis of the impugned order. Hence, the impugned order is in gross violation of the procedure contemplated under the provisions of the Tamil Nadu Panchayats' Act, 1994. Therefore, the procedural irregularity goes to the root of the matter affecting the very validity of the impugned order. Therefore, on that score alone, the impugned order is liable to be set aside.

6.That apart, seven of the elected Ward Members have supported the cause of the petitioner and stated that he should not be divested of the cheque signing power. There is no plausible reason for ignoring such a mandate, when the remaining six are only a minority group, who have pitted against the petitioner. Therefore, when the District Collector is placed with these facts, he has to take a conscious decision with due application of mind as to whether the cheque signing power has been withdrawn from the petitioner by the Village Panchayat. This application of mind should be reflected in the order and as to how in the opinion of the District Collector, action is

warranted against the petitioner, when he was the complainant before the District Collector, complaining about the conduct of the President. Since the impugned order is vitiated, on these technical grounds, the same calls for interference.

7. Accordingly, the writ petition is allowed and the impugned order is quashed. However, this will not preclude the respondent District Collector from initiating fresh action, if need arises and if there is a cause of action for the same. No costs. Consequently, connected miscellaneous petition is closed.

TK

Sd/-
Asst. Registrar

/true copy/

Sub Asst. Registrar

To

1. The District Collector cum
Inspector of Panchayat
Collectorate
Vellore - 632 009.

2. The Assistant Director (Panchayats)
Sathuvacherry,
Vellore District.

+ 1 cc to Mr. A. Jenasenan, Advocate Sr 23332

+ 1 cc to The Govt. Pleader, Sr 23191

KR/28/4/16

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