

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.10.2016

CORAM

THE HONOURABLE Mr. JUSTICE N. KIRUBAKARAN

W.P.No.30756 of 2016 &

W.M.P.Nos.26651 & 26652 of 2016

G.Munusamy

... Petitioner

Versus

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

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

3.The Block Development Officer,
(Village Panchayats),
Nemili,
Vellore District.

4.G.Ramesh

5.Krishnaveni

... Respondents

Prayer: This Writ Petition is filed under Article 226 of the Constitution of India, seeking for a Writ of Certiorarified Mandamus, to call for the records of the first and third respondents passed in Na.Ka.No.2672 of 2015/A4, dated 29.06.2016 and in Na.Ka.No.A4/2431/2016, dated 21.07.2016 respectively and quash the same and consequently forbear the fourth respondent from jointly signing the signatures on the cheques till the first respondent conduct an enquiry under Section 188(3) of the Act as per order dated 12.04.2016 in accordance with the order of this Court in W.P.No.2070 of 2016, dated 20.07.2016.

For Petitioner : Mr.P.Krishnan

For Respondents : Mr.T.M.Pappiah
Special Government Pleader
for R1 and R2

Mr.Rajendra Narasimman for R3

Mr.N.Manokaran
for Mr.S.Deivasigamani for R5

O R D E R

The petitioner was elected as a President and the fourth respondent was elected as Vice-President of Ganapathipuram Panchayat, Arakkonam Taluk, Vellore District. Since the fourth respondent was not regularly attending and looking after the administration of the Panchayat, he was divested with the power of the check signing power, by virtue of the order dated 18.12.2015 and the cheque signing power was given to the fifth respondent herein. The said order of cheque signing power passed by the District Collector, dated 18.12.2015 was challenged before this Court in W.P.No.2070 of 2016 and this Court, by an order dated 12.04.2016, this Court set-aside the order and remanded the matter to the first respondent-District Collector. Thereafter, the impugned order has been passed.

2. Heard Mr.P.Krishnan, learned counsel appearing for the petitioner; Mr.Mr.T.M.Pappiah, learned Special Government Pleader appearing for the respondents 1 and 2; Mr.Rajendra Narasimman, learned counsel appearing for the third respondent and Mr.N.Manokaran, learned counsel appearing for the fifth respondent.

3. Though the fourth respondent-G.Ramesh was served and his name is also appearing in the cause list, neither G.Ramesh appeared nor any of the counsel entered appearance. On behalf of the fifth respondent, Mr.N.Manokaran, learned counsel appeared.

4. While setting aside the order dated 18.12.2015 passed by the first respondent-District Collector, taking away cheque signing power of the fourth respondent, this Court remanded the matter to initiate fresh action and paragraph No.7 of the order of this Court dated 12.04.2016 reads as follows:-

"7. Accordingly, the Writ Petition is allowed and the impugned order is quashed. However, this will not preclude the respondent-District Collector for 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."

5. When initiating of fresh action, as has been observed by this Court, the first respondent-District Collector should have issued notice to all the parties and passed the orders on merits. However, without issuing notice, on his own, the first respondent-District Collector has passed an order, which is not as per the direction issued by this Court. Moreover, the first respondent-District Collector restored the cheque signing power to Mr.G.Ramesh, without giving any reasons, especially, when the same District Collector had already divested him of the cheque signing power on 18.12.2015. Therefore, the order suffers for lack of application of mind, and non hearing all the parties concerned before passing the order. Hence, the impugned orders are set-aside and the first respondent-District Collector is directed to issue notice to all the parties and hear them and pass appropriate orders, within a period of twelve weeks from the date of receipt of a copy of this order.

6. Accordingly, the Writ Petition is allowed. There is no order as to costs. Consequently, connected miscellaneous petitions are closed.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

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

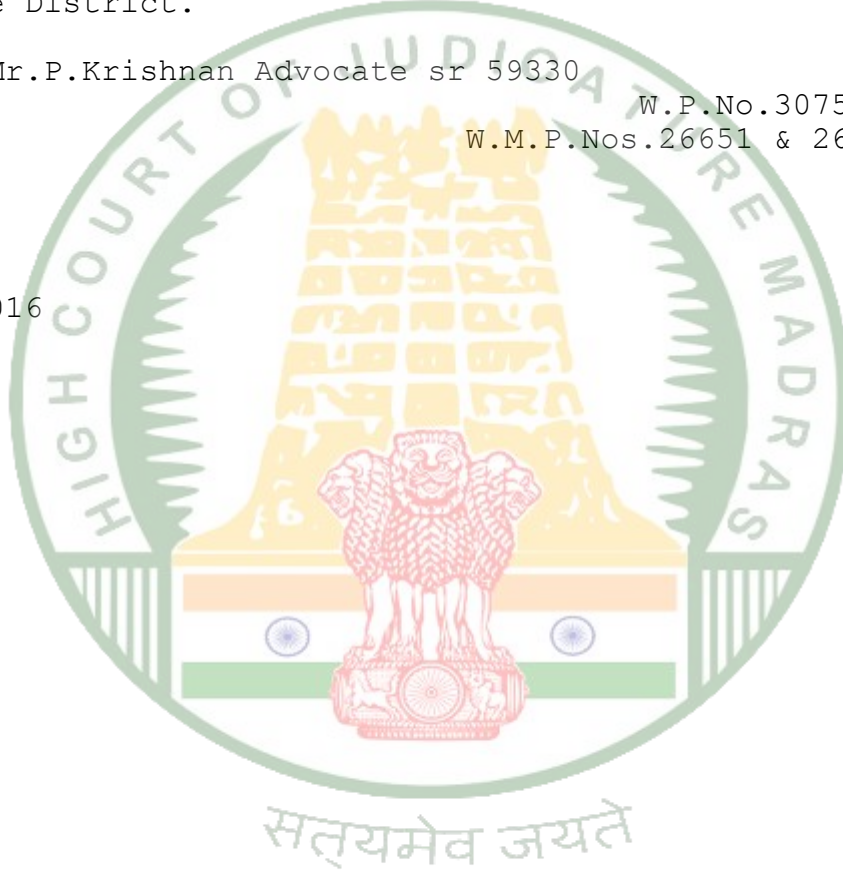
2.The Assistant Director (Panchayats),
Vellore District,
Sathuvachary, Vellore.

3.The Block Development Officer,
(Village Panchayats),
Nemili,
Vellore District.

+1 cc to Mr.P.Krishnan Advocate sr 59330

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