



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

C O R A M

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THE HONOURABLE MR.JUSTICE T.RAJA

W.P(MD)No.11300 of 2016
and W.M.P(MD)No.8652 of 2016

P.Gunasekaran

.. Petitioner

Vs.

The District Collector cum Inspector of Panchayats,
Theni District.

..Respondent

Prayer :Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari, to call for the records relating to the impugned order of the respondent in Na.Ka.No.21020/2012/B2, dated 20.04.2016 and quash the same.

For Petitioner : Mr.C.Jegannathan

For Respondent : Mr.G.Muthukannan
Government Advocate

ORDER

Aggrieved by the impugned order, dated 20.04.2016 in Na.Ka.No.21020/2012/B2 passed by the District Collector cum Inspector of Panchayats, Theni District, removing the petitioner from the post of President, he has filed the present Writ petition on various grounds.

2. Mr.G.Muthukannan, learned Government Advocate takes notice for the respondent.

3. The learned counsel for the petitioner, *inter alia*, would contend that when the show cause notice dated 20.11.2015, indicating certain irregularities in the affairs of the Kovilpatti Village Panchayat was issued, the petitioner submitted a detailed representation on 25.11.2015, denying the allegation of misappropriation of fund as he is noway connected with the said allegation, because the funds of the Panchayat were not misappropriated either by the President or by the Vice President. Moreover, Mr.Paraman, who was the then Secretary has given an affidavit of undertaking stating that he alone has misappropriated



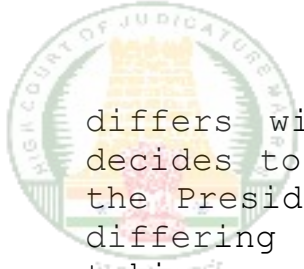
the panchayat funds. When that was the admitted case of the said Paraman, the then Secretary of the Village Panchayat, the petitioner being an elected President of the Village Panchayat cannot be found fault with.

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4. Adding further, the learned counsel for the petitioner submitted that when the enquiry was conducted, the said Paraman, the then Secretary of the said Panchayat, has accepted his guilt and also gave an affidavit of undertaking on 14.05.2012 that he was fully responsible for the shortcomings and misappropriation of funds and the President and Vice President have no way connected with the said misappropriation. Therefore, when the then Secretary of the Village Panchayat has already admitted his guilt, the respondent ought not to have proceeded further as against the petitioner.

5. The learned counsel for the petitioner further submitted that the Tahsildar issued a notice for conducting a meeting under Section 205 of the Tamil Nadu Panchayat Act, 1994, for the purpose of getting opinion from the members of the said Panchayat, however, due to objections raised by the members of the Panchayat, the said meeting was adjourned to some other date. Subsequently, meeting was convened on 14.09.2012 and the Tashildar also has recorded the views of the councillors without discussing the alleged misappropriation, as admitted by Mr.Paraman. In view of the above admitted facts, all the elected members of the Village Panchayat are supporting the President, therefore, the act of the respondent in issuing the impugned order of removal from the post of panchayat President is not in accordance with law.

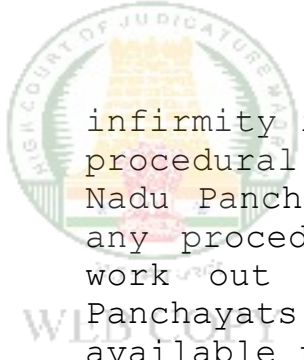
6. Further, the learned counsel for the petitioner has contended that the mandatory condition as provided under the Act, that if the Inspector differs from the views expressed by the Village Panchayat and decides to remove the President, the Inspector has to provide further notice to the President intimating the reasons for difference and can issue the notification only on consideration of the cause given by the President, was not followed in this case. Hence, the respondent / District Collector cum Inspector of Panchayats may be directed to give fresh notice and thereafter, proceed further in accordance with law. While giving fresh notice, calling upon the petitioner to submit his explanation as to why the District Collector should not differ from the views of the majority of the elected members of the Village Panchayat, if any explanation is provided, the same shall be considered by him. Continuing his argument, the learned counsel for the petitioner relied on a decision of this Court in the case of *District Collector and Inspector of District Panchayat, Villupuram District and another Vs. Devi Parasuraman and another* reported in 2009 (7) MLJ 417 (FB) wherein, it has been categorically held that if the Inspector of Village Panchayat



differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President intimating the reasons for difference and can issue notification only on consideration of cause, if any, shown by the President. The learned counsel also submitted that without following this ratio, the respondent has no authority to pass the impugned order in removing the petitioner from the Post of Village President.

7. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondent.

8. This Court is not inclined to entertain this Writ Petition once again now. The reason is when the petitioner on an earlier occasion came to this Court in W.P(MD)No.14809 of 2015 taking the only plea that the District Collector, Theni District, while intending to proceed with under Section 205 of the Tamil Nadu Panchayats Act by differing with the majority view of the Panchayat, at first, he has to record his reasons for differing from the views of the village panchayat and he is required to provide notice to the President intimating the reasons for difference and call for explanation and thereafter only he can proceed further under Section 205 of the Tamil Nadu Panchayats Act and since that procedure was not followed as per the ratio laid down in the Full Bench decision of this Court in *District Collector & Inspector of District Panchayat vs. Devi Parasuraman*, reported in (2009) 7 MLJ 417, this Court by order dated 26.08.2015 in W.P(MD)No.14809 of 2015, setting aside the order of removal dated 10.08.2015, has given liberty to the District Collector to issue a fresh notice by intimating the reasons for differing from the views of the village panchayat and call upon the petitioner to submit his explanation and thereafter proceed further under Section 205 of the Tamil Nadu Panchayats Act, if he is not satisfied with the explanation offered by the President, if any. Pursuant thereto, the District Collector cum Inspector of Panchayats, Theni District, has issued a notice dated 20.11.2015 to the petitioner setting out his reasons for differing from the views of the panchayat and also called for explanation from the President. Thereafter, the petitioner also on receipt of the abovesaid notice issued by the District Collector has submitted his detailed explanation on 25.11.2015. Finding the said explanation offered by the President as not satisfactory, the District Collector has proceeded further and passed the impugned removal order with all good reasons as per the ratio laid down in the Full Bench judgment of this Court in *District Collector & Inspector of District Panchayat vs. Devi Parasuraman*, reported in (2009) 7 MLJ 417, therefore, this Court is not able to find any



infirmity in the present impugned order of removal. So far as the procedural aspects to be followed under Section 205 of the Tamil Nadu Panchayats Act are concerned, this Court is not able to see any procedural violation, however, it is for the petitioner to work out his remedy under Section 205(12) of the Tamil Nadu Panchayats Act, as there is an effective alternative appeal remedy available to him.

9. With these observations, the Writ Petition stands dismissed. No costs. W.M.P(MD)No.8652 of 2016 is closed.

Sd/-

Assistant Registrar(W)

/True Copy/

Sub-Assistant Registrar

To

The District Collector cum
Inspector of Panchayats,
Theni District.

+One cc to The Speacial Government Pleader, SR.No.33199

ps

RL/3C/4P/GSV/PM/21/7/2016

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