



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2016

CORAM

THE HONOURABLE MR.JUSTICE T.RAJA

W.P (MD) .No.12971 of 2016

and

W.M.P. (MD) .No.9769 of 2016

M.Mahalingam

...Petitioner

Vs

1.The District Collector,
Karur District.2.The Tashildar,
Kulithali Taluk,
Karur District.3.The Assistant Director (Panchayat),
Karur District.4.The Block Development Officer
(Village Panchayat),
Kulithalai Union,
Karur District.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records pertaining to the order passed by the second respondent in his proceedings in Na.Ka.No.A1/986/2016 dated 15.07.2016 and quash the same.

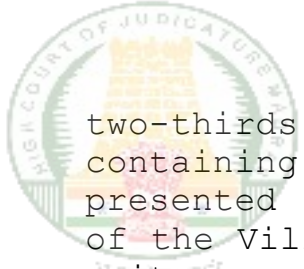
For petitioner : Mr.V.Paneerselvam
For R.1 to 3 : Mr.M.Rajarajan
Government Advocate
For R.4 : Mr.R.Anandharaj

ORDER

Mr.M.Mahalingam, who is the elected Panchayat President of K.Pettai Village Panchayat, Kulithalai Union, Karur District, challenges the impugned order passed by the Inspector of Panchayat, namely, the District Collector, dated 15.07.2016, on various grounds.

2. Learned counsel for the petitioner has made the following submissions:-

<https://hcservices.ecourts.gov.in/hcservices/> Firstly, as per Section 205(1) of the Tamil Nadu Panchayat Act, 1994, if the Inspector of Panchayat, on his own motion or on a representation in writing signed by not less than



two-thirds of the sanctioned strength of the Village Panchayat containing a statement of charges against the President and presented in person to the Inspector by two-thirds of the members of the Village Panchayat, is satisfied that the President wilfully omits or refuses to carry out or disobeys any provision of this Act, or any rule, by-law, regulation, lawful order made or issued under this Act or abuses any power vested in him, the Inspector shall, by notice in writing, require the President to offer within a specified time, his explanation with respect to his acts of omission or commission mentioned in the notice. In the present case, there is no such representation in writing signed by not less than two-thirds of the sanctioned strength of the Village Panchayat. It is stated that nine members made a complaint and the District Collector has issued a notice on 12.10.2015 under Section 250(1) of the Tamil Nadu Panchayats Act, 1994 (in short 'the Act'). After receipt of the same, on 28.11.2015, the petitioner replied to the charges levelled against him, however, it is not known as to whether the District Collector was satisfied with the explanation or not. It is submitted that, without making his mind known to the petitioner on the aspect in question, he proceeded to hold a Meeting by giving a direction to the Tashildar to find out the views of the elected Members. The District Collector, first of all, should have given his reasons for not being satisfied with the explanation offered by the petitioner. The said attitude on the part of the District Collector is against the provisions of the Act.

(ii) Secondly, the petitioner is entitled to get all the documents, namely, representation, explanation and opinion for consideration of notice and explanation before removal of the President in a Meeting convened by the Tashildar under the said Act. In support his contention, he relied upon a decision, dated 05.02.2015, of a Division Bench of this Court rendered in W.A.No.1718 of 2014, (*R.Sivasamy Vs. The District Collector and others*) to state that if a Meeting is convened against the President concerned, he is entitled to have access to all the relevant materials and other Members are also entitled to the same for effective and proper consideration and decision. Therefore, without furnishing the aforementioned documents, the proposed Meeting scheduled on 25.07.2016 cannot be allowed to take place.

(iii) Thirdly, the petitioner was issued with a notice on 18.07.2016, whereas, the Act prescribes that a clear seven days notice must be given to the President concerned. In the present case, it has not been done so.

(iv) Fourthly, again taking support from an order passed by this Court in W.P.No. 37077 of 2015 dated 09.02.2016, (*K.Ravi Vs. The State of Tamil Nadu and others*), he submitted that this Court has held that the District Collector should inform the President about the reasons for holding a Meeting to find out the views of the elected Members of the Society. However, he has not conveyed in that regard to the petitioner.



For all the above reasons, he prayed this Court that the order impugned in this Writ Petition is liable to be set aside.

3. Refuting the afore-said allegations, the learned Government Advocate submitted that the present endeavour of the petitioner is nothing but an attempt to drag on the proceedings issued by the District Collector. The District Collector, only after being satisfied that the Meeting is necessary, directed the Tashildar concerned to hold a Meeting to ascertain the views of the elected Members. There is nothing wrong in it. Further, seven days time as contemplated under the Act has been given to the petitioner. In the present case, notice was served on the petitioner on 18.07.2016, whereas, the proposed Meeting is scheduled on 25.07.2016. Under the said circumstances, the question of once again issuing a notice to the petitioner will not arise. Therefore, he submitted that the contention of the petitioner is liable to be set aside.

4. Considered the rival submissions made on either side and perused the materials available on record.

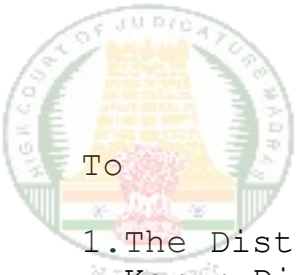
5. Even according to the petitioner, he received the notice from the District Collector on 18.07.2016 informing him that there will be a Meeting on 25.07.2016 to find out the views of the elected Members for removing him from the post of Presidentship. Therefore, the respondents has complied with Section 205(4) of the Act. Accordingly, I reject the ground that the petitioner has not been served with seven clear days notice. However, I find merits in the submission made by the learned Counsel for the petitioner about non-furnishing of documents to the petitioner as well as other members. Now, the respondents would submit that the charges, representation given by the other Members and the proposal for removal of the petitioner from the post of Presidentship, will be served in due course of the day to come, not only to the petitioner but also to the other Members, if it has not been served already to them.

6. Though very many grounds have been raised, since the respondents have now submitted that the afore-said documents would be served to the petitioner and to the other Members in the course of the day, which would serve the purpose of the petitioner, this Court is of the view that the grievance of the petitioner will be met with, in this Writ Petition.

7. Accordingly, the order impugned in this Writ Petition stands set aside and the respondents are directed to hold a Meeting to find out the views of the elected Members in any other day, after serving the afore-mentioned documents to the petitioner. The Writ Petition is disposed of, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)



To

1.The District Collector,
Karur District.

2.The Tashildar,
Kulithali Taluk,
Karur District.

3.The Assistant Director (Panchayat),
Karur District.

4.The Block Development Officer
(Village Panchayat),
Kulithalai Union,
Karur District.

+1cc to M/s.V.Panner Selvam, Advocate in SR.39218

+1cc to the Special Government Pleader, in SR.39106

W.P (MD) .No.12971 of 2016
22.07.2016

ssm

PBK/GSV/SAR-I 22/08/2016 ::4P-7C:: (IT)