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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 17.08.2016

CORAM

THE HONOURABLE MR. JUSTICE T. RAJA

Writ Petition (MD) No. 14114 of 2016
and

W.M.P (MD) No. 10467 of 2016

M. Kannan
President, Annaikuttam Panchayath,
Sivakasi Panchayat Union,
Virudhunagar District.

.. Petitioner

Vs.

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1. The District Collector,
(Inspector of Panchayat),
Virudhunagar District,
Virudhunagar.

2. The Block Development Officer,
(Village Panchayat),
Sivakasi Panchayat Union,
Virudhunagar District.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records of the 1st respondent relating to the impugned order passed by him vide Na.Ka.Ou.E.1/2410/2015 (Na.Ka.Ou.E.1/2410/2015) dated 22.07.2016 and quash the same as illegal void and ultra vires and against law and consequently directing the respondents to restore petitioners cheque signing power and maintaining bank accounts of the Annaikuttam Panchayat, Sivakasi Panchayat Union Virudhunagar District within a time frame as may be fixed by this Court.

For Petitioner : Mr. M. Ponniah

For 1st Respondent : Mr. M. Rajarajan
Government Advocate.

For 2nd Respondent : Mr. R. Anandharaj,
Government Advocate.

ORDER

Mr. M. Kannan, an elected President of Annaikuttam Panchayat, Sivakasi Panchayat Union, Virudhunagar District, has suffered an adverse order, dated 22.07.2016, at the hands of the first respondent, the District Collector-cum-Inspector of Panchayat, Virudhunagar District, whereby, the cheque-signing power of the petitioner was taken away. Therefore, he has come to this Court to restore his cheque signing power by quashing the impugned order on the ground that the Tamil Nadu Panchayats Act, 1994, (henceforth, for brevity referred to as the "Act") does not confer any power on the first respondent to take away the cheque-signing power of an elected President of a village panchayat.



2. Learned counsel appearing for the petitioner, by referring to a decision of this Court in **Logeswari Vs. The District Collector, Tiruchirappalli (2013(2) CTC 846)**, would submit that cheque-signing power is a statutory power conferred on the President and the Vice President and the same cannot be taken away by the Inspector of Panchayat, by exercising the emergency powers. It was also held in the said decision that since the cheque-signing facility is given by the statute, there should be a specific power conferred upon the Inspector of Panchayats to take away such power. That being so, when there is no specific provision to take away the cheque signing power of the President or the Vice President, the Collector cannot invoke incidental or emergent powers to divest the elected representatives of their statutory right. Adding further, learned counsel would submit that when this Court has clearly spelt out the legal position that the District Collector has no power under Section 203 of the Act to take away the cheque-signing power of the President and the Vice President, the impugned order, divesting such power conferred upon the President, to issue cheques is liable to be set aside.

3. Mr. M. Rajarajan, learned Government Advocate for the first respondent, reiterating the stand taken in the counter affidavit, would submit that several complaints were received by the District Collector alleging misappropriation of the panchayat funds, therefore, the Assistant Director of Panchayats directed the President to attend an enquiry with relevant records on 28.09.2015. During the said enquiry, the Panchayat accounts for the years 2011-2012 and 2012-2013 were examined and a special audit was ordered by the Inspector of Panchayats cum the District Collector in Roc.AD7/2410/15, dated 27.11.2015. Consequent thereto, a special audit report was submitted to the Collector alleging financial lapses to the tune of Rs.2,65,844/-. Therefore, on 28.03.2016, 04.05.2016 and 27.05.2016, show cause notices were issued against the President of the Panchayat, seeking explanation on the report submitted by the Assistant Director of Audit. Although sufficient time was given, no reply was submitted by the President, whereupon, by considering the fact that the petitioner has failed to submit his explanation, the District Collector proceeded to pass the impugned order divesting his power to sign any cheque relating to the Panchayat. Finally, in order to take care of the affairs of the village and ensure that the administration of the village should not suffer, the Block Development Officer was directed to discharge the said power. Only by taking into account the larger interest of the village, the cheque-signing power came to be shifted to the second respondent, therefore, the impugned order passed by the first respondent, granting the cheque-signing power to the Block Development Officer, need not be interfered with.

4. But this Court is not able to appreciate the reasons assigned by the first respondent for taking away the cheque-signing power of the elected president. In this context, it is necessary to extract the relevant portion of the judgment of this Court in the **Logeswari's** case (supra) which is given as under:

<https://hcservices.ecourts.gov.in/hcservices/>

"21. The Collectors are very often exercising this power to take away the cheque signing powers of the President and Vice



President. The power to sign cheque is a statutory power conferred on the President and Vice President under sub-section (3) of Section 188 of the Act. The President and Vice-President are under the general control of the Village Panchayats. The statutory power given to the President of the Panchayat or Vice-President cannot be taken away by the Inspector of Panchayat, by exercising the emergency powers. Since the cheque signing facility is given by the statute, there should be a specific power conferred upon the Inspector of Panchayats to take away such power. So long as there are no specific provisions to take away the cheque signing power of the President or Vice-President, the Collector cannot invoke incidental or emergent powers to divest the elected representatives of their statutory right.

22. The Inspector of Panchayats is given power under Section 205 of the Act to remove the President from office. Similar powers are given under Section 206 of the Act for the purpose of removal of Vice President. Sub-Section (b) of Section 205(1) of the Act gives authority to the Inspector of Panchayats to take action against the President of Panchayat, in case it is made out that the President abused the power vested in him. In case it is made out that the President abused the cheque signing power, and misappropriated the public funds, the same can be a valid reason to initiate action for removal under Section 205 of the Act.

23. The President is an elected representative of the people of the village. The Constitution and the Panchayat Act wanted to give financial powers to the local body and it was only for the said purpose, the legislature has vested the executive authority on the Panchayat. The Legislature has given the cheque signing power to the President and Vice President. The cheques have to be signed jointly by the President and Vice President and in the absence of the President or Vice President, as the case may be, by another member authorized by the village panchayat. Such a power cannot be taken away by the District Collector lightly by invoking the emergency powers.

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25. The law is, therefore, clear that the District Collector has no power under Section 203 of the Panchayat Act to take away the cheque signing power of the President and the Vice President.

26. Therefore, I am of the view that the first respondent was not justified in invoking the jurisdiction under Section 203 of the Act to divest the President of her cheque signing power."

5. When the law is well settled and the issue is also no longer *res integra*, this Court while reiterating that the first respondent District Collector cannot exercise his power under Section 203 of the Act to divest the cheque signing power of the President, sets aside the



impugned order. The writ petition stands allowed accordingly. No costs. Consequently, W.M.P(MD)No.10467 of 2016 is closed.

Sd/

Assistant Registrar(AE)

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Sub Assistant Registrar

To

The District Collector,
(Inspector of Panchayat),
Virudhunagar District,
Virudhunagar.

+1cc to M/S.M.Ponnaiah, Advocate in SR.No.45139

+1cc to Special Government Pleader in SR.No.45334

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and

W.M.P(MD)No.10467 of 2016

17.08.2016

sms

PA/KBM/SAR III/24.08.2016/4P/4C (IT)