



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.04.2016

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THE HONOURBLE MR.JUSTICE B.RAJENDRAN

W.P(MD) . Nos. 13501 of 2013 and 13630 of 2015
and
M.P. (MD) .Nos.1 of 2013 and 1 of 2015

V.Sandal Muthuraj ... Petitioner in both wps.

Versus

1.The District Collector,
cum The Inspector of Panchayats,
Tirunelveli District.

2.The Assistant Director of
Panchayats (Village Panchayats)
Tirunelveli District,
Tirunelveli.

3.The Block Development Officer,
(Village Panchayats)
Radhapuram Panchayat Union,
Tirunelveli District.

4.Smt.Murugamma ... Respondents in WP 13501 of 2013

1.The District Collector,
cum The Inspector of Panchayats,
Tirunelveli District.

2.The Tashildar Radhapuram Taluk,
Taluk Office Radhapuram,
Tirunelveli District.

3.S.Bagavathy ...R3 impleaded vide Court order dt.05.08.2015
in MP.2/15

4.V.Perumal samy

5.P.Krishnan

6.T.Vadivoo

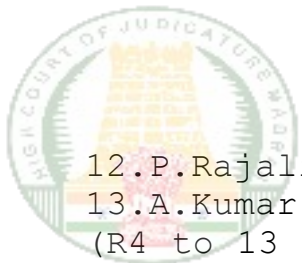
7.E.Pechiammal

8.P.Selvakumar

<https://hccs.sscourtsgov.in/htc/index.html>

10.A.Selvamani

11.S.Murugan



12.P.Rajalingam

13.A.Kumar

... Respondents in WP 13630 of 2015
(R4 to 13 are impleaded vide Court order dt.17.03.2016 in WMP(MD).
No.4862/16

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Prayer in W.P (MD) No.13501 of 2013 : Writ 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 order passed by the 1st respondent vide his proceedings in A.6/3168/2013 dated 09.07.2013, and quash the same.

Prayer in W.P (MD) No.13630 of 2015 : Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorari to call for the records and quash the proceedings of the Panchayat Meeting allegedly held on 10.03.2015 by the Tashildar, Radhapuram and the order of the District Collector cum Inspector of Panchayats, Tirunelveli District vide his proceedings No.A.6/3168/2013 dated 15.07.2015 [Served on me on 25.07.2015] and the consequent Notification in the District Gazette vide No.155 and Proceedings No.VI (2) 121(a) 2015 dated 23.07.2015 [served on the petitioner on 25.07.2015], Removing the petitioner from the Post of President of Kudankulam Panchayat.

For petitioner

in both Wps

: Mr. S. Ramesh Alias Ramiah

For respondents in

W.P(MD)No.13501 of 2013

: Mr. N.S. Karthikeyan
A.G.P for R1 and R2

Mr. B. Pugalendhi,
Special Govt. Pleader for R3
Mr.T.Lajapathy Roy for R4

For respondents in

W.P(MD)No.13630 of 2015

: Mr.N.S.Karthikeyan
Addl. Govt. Pleader
for R1 and R2

Mr.S.Arulraj for R3
Mr.H.Thayumanasamy
for R4 to R13

COMMON ORDER

In view of the fact that the issue involved in both the writ petitions is one and the same, they are taken up together and disposed of by this common order.

<https://hcservices.courts.gov.in/hcservices/> The petitioner was functioning as President of the Radhapuram Taluk, Tirunelveli District. During the course of such Presidentship, for certain alleged irregularities committed by the



petitioner, the District Collector, Tirunelveli has passed an order dated 09.07.2013 withdrawing the cheque signing power given to the petitioner. Challenging the same, the petitioner has filed the first writ petition namely WP (MD) No. 13501 of 2013. Subsequently, by the order dated 15.07.2015 of the District Collector, Tirunelveli, the petitioner was removed from the post of President. This order is challenged in WP (MD) No. 13630 of 2015 by the petitioner. The order dated 15.07.2015 was passed after a meeting was convened by the Tahsildar, Radhapuram Taluk on 10.03.2015 in the presence of the all the members of the Village Panchayat including the District Collector, Tirunelveli. The said order was also published in the District Gazette on 23.07.2015 indicating that the petitioner has been removed from the post of President.

3. Earlier, the petitioner has filed WP (MD) No. 3142 of 2015 challenging the convening of the meeting on 10.03.2015 and that was dismissed by this Court on 06.03.2015. Yet another writ petition in WP No. 12353 of 2015 was filed by the Vice-President of the Panchayat seeking to take immediate action against the petitioner by considering his representation in which an order was passed by this Court to take appropriate action on the representation of the Vice-President. Thereafter, the meeting was convened on 10.03.2015 in which a decision was taken to remove the petitioner from the post of President. In the meeting, all the members have participated and their views were ascertained and prominently recorded by the Tahsildar, Radhapuram Taluk. The minutes of the meeting so recorded were forwarded to the District Collector based on which the order of removal came to be passed against the petitioner.

4. The learned counsel for the petitioner would contend that the impugned order of removal was passed without notice to the petitioner and it is in violation of the principles of natural justice. It is further stated that the fourth respondent in WP No. 13501 of 2013 is none other than the wife of one of the Panchayat Members and she constructed a Gas Godown without obtaining prior permission of the Panchayat. The fourth respondent also obtained no Objection for the construction of the Gas Godown from the District Collector on 14.12.2012. When the petitioner demanded for obtaining prior permission, as per the norms, they have exhibited rude behaviour towards the petitioner and acted enemical towards him. Further, during the strike against the setting up of the Kudankulam Power Project, the petitioner supported the cause of the Government which was not to the likening of the Villagers. Therefore, false complaints were given against the petitioner, based on which, the District Collector has passed an order dated 09.07.2013 withdrawing the cheque signing power given to the petitioner, which was subjected to challenge by the petitioner before this Court. Thus, at each and



every stage, the petitioner was made to approach this Court in view of the arbitrary action initiated against him. As far as the present petition is concerned, a meeting was convened behind the back of the petitioner without even giving notice to him. Therefore, the learned counsel for the petitioner prayed for allowing the writ petitions.

5. Per contra, the learned Special Government Pleader appearing for the official respondents in WP No. 13501 of 2013 as well as the learned Additional Government Pleader for the official respondents in WP (MD) No. 13630 of 2015 would oppose the writ petitions by relying upon the counter affidavits filed by the official respondents. According to the respondents, the District Collector received complaints relating to mismanagement of the Village Panchayat funds and therefore, he directed the Tahsildar, Radhapuram to conduct a special audit for the period from 01.10.2012 to 16.06.2013. During the course of audit, it came to light that the petitioner indulged in serious malpractices and irregularities in handling the funds of the panchayat. A show cause notice dated 16.10.2014 was therefore issued calling upon the petitioner to submit his explanation. The second respondent thereafter proceeded to conduct a meeting on 15.02.2015 to ascertain the views of the members of the Panchayat for removing the petitioner from the post of President. Aggrieved by the notice, the petitioner filed WP (MD) No. 20409 of 2014 before this Court and it was allowed on 15.02.2015 giving liberty to the respondents 1 and 2 therein to proceed in the matter afresh after following all the procedures contemplated under law. Thereafter, when the second respondent issued a notice for convening the meeting on 10.03.2015, the petitioner once again filed WP (MD) No. 3142 of 2015 challenging the convening of the meeting and it was dismissed by this Court on 06.03.2015. Thereafter, the meeting was convened on 10.03.2015 in which members of the Panchayat have unanimously resolved to remove the petitioner from the post of President for having committed alleged irregularities. It is further stated that as against the order of removal passed by the District Collector, in terms of Section 205 (11) of the Tamil Nadu Village Panchayat Act, an appeal remedy is provided under Section 205 (12) of the said Act. Therefore, the writ petition No.13630 of 2015 is not maintainable and they prayed for dismissal of both the writ petitions.

6. The Vice President/third respondent in WP (MD) No. 13830 of 2015 has filed a separate counter affidavit contending that the meeting held on 10.03.2015 was valid in law in which the Tahsildar has ascertained the views of all the members and thereafter, passed the order of removal came to be passed against the petitioner. The petitioner has failed in his duty as a President in terms of Sections 46 and 84 of the Act. In the interest of the Village Panchayat as a whole, the Inspector/District Collector has



meeting has been convened in violation of principles of natural justice.

9. Yet another point for consideration in WP (MD) No. 13630 of 2015 is that as against an order of removal an appeal remedy is provided under Section 205 (12) of the Tamil Nadu Village Panchayat Act before the Government. When such an alternative remedy is provided under the Act, the writ petition filed by the petitioner is not maintainable as against the order of removal passed by the District Collector. Therefore, the writ petition No. 13630 of 2015 is not maintainable.

10. In view of the above, WP (MD) No. 13630 of 2015 is dismissed. In view of the dismissal of WP (MD) No. 13630 of 2015, the relief sought for in WP (MD) No. 13501 of 2013 need not be granted. Accordingly, both the writ petitions are closed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub Assistant Registrar

To

- 1.The District Collector,
cum The Inspector of Panchayats, Tirunelveli District.
 - 2.The Assistant Director of Panchayats (Village Panchayats)
Tirunelveli District, Tirunelveli.
 - 3.The Block Development Officer,
(Village Panchayats)
Radhapuram Panchayat Union, Tirunelveli District.
 - 4.The Tashildar Radhapuram Taluk,
Taluk Office Radhapuram, Tirunelveli District.
- +1cc to Mr.S.ARUN RAJ,Advocate Sr.No.24321
+1cc to Mr.H.THAYUMANASAMY,Advocate Sr.No.24320
+1cc to Mr.RAMESH @ RAMIAH,Advocate Sr.No.24104
+1cc to Spl.Government Pleader Sr.No.24190
SRM/RSR
AA/NGM-MP/SAR-II/06.07.2016/6p-9c

WP (MD).Nos.13501 of 2013

WP (MD) No. 13630 of 2015

26.04.2016