



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 05.07.2016

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THE HONOURABLE MR.JUSTICE M.VENUGOPAL**W.P (MD) No.17245 of 2013****and****M.P (MD) Nos.1 and 2 of 2013**

M.V.Anainthaperumal
Son of Vaithiyalingam,
President,
Mayamankurichi Village Panchayat,
Alangulam Panchayat Union,
Kuruvankottai-627 853,
Tirunelveli District.

..Petitioner

.Vs.

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

2.The Block Development Officer,
Village Panchayat,
Alangulam,
Tirunelveli District.

..Respondents.

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari calling for the impugned order passed by the First Respondent made in A8/612/2013, dated 13.7.2013 in cancelling the Panchayat Meeting, dated 31.01.2013, 22.02.2013 and 05.03.2013 as well as the resolution made in the panchayat on the said dates bearing Nos.123, 131, 132,133, 134, 137, 138, 140, 141, 142, 143 and 144 respectively and to quash the same forthwith.

For Petitioner :No appearance

For Respondent-1 :Mr.V.Muruganandam
Addl.Govt.Pleader

For Respondent-2 :Mr.K.Guru,
Addl.Govt.Pleader

**ORDER**

Heard the respective Learned Additional Government Pleaders for the Respondents 1 and 2.

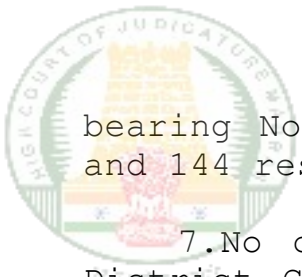
2. According to the Petitioner, the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli on 13.07.2013 passed an order cancelling the various resolutions passed in the Mayamankurichi Village Panchayat, Alangulam Panchayat Union, Kuruvankottai, Tirunelveli District, by holding that the meetings were conducted contrary to the Tamil Nadu Panchayat Act, 1994, as per proceedings, dated 13.07.2013,

3. The stand of the Petitioner is that the reasons assigned by the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli for cancelling the resolution made in the meeting that took place on 31.01.2013 is that no notice was given as per the said Act to the Ward Members of the Panchayat. In fact, three days prior notice must be given to the members of the Panchayat before conducting the forthcoming panchayat meeting. As a matter of fact, the notice was sent on 29.01.2013 and that the meeting took place on 31.01.2013 within three days. As such, the resolution made in the said meeting through Resolution No.223, dated 31.1.2013 was directed to be cancelled.

4. Insofar as the meeting, dated 22.02.2013 was concerned, notice was given only for 12 Agendas, but totally 20 resolutions were made in the meeting and hence the same was contrary to the Tamil Nadu Panchayat Act, 1994. Therefore the said meeting was liable to be cancelled with all the resolutions made in the said meeting bearing Nos. 131, 132, 133, 134, 137, 138, 140, and 141.

5. As regards the another meeting, dated 5.3.2013 was concerned, the place, date and time were not specified in the notice for the proposed meeting on 5.3.2013. Also that, the lack of particulars in the said notice issued by the Panchayat to the members vitiates the said meeting held in the Panchayat and subsequent resolutions in the said meeting were to be cancelled by the First Respondent vide Resolution bearing Nos. 142, 143 and 144.

6. Being aggrieved against the order of the First Respondent/The District Collector/The Inspector of Panchayats, Tirunelveli District, Tirunelveli cancelling all the resolutions made on 31.01.2013, 22.02.2013 and 05.03.2013, the Petitioner has filed the instant Writ Petition before this Court praying to call for the impugned order passed by the First Respondent vide Resolution No. A8/612/2013, dated 13.7.2013 in cancelling the Panchayat meeting, dated 31.01.2013, 22.02.2013 and 05.03.2013 as well as the resolutions made in the Panchayat on the said dates



bearing Nos.123, 131, 132,133, 134, 137, 138, 140, 141, 142, 143 and 144 respectively and to quash the same forthwith.

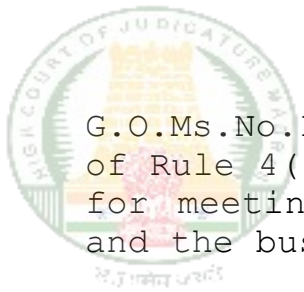
7.No counter is filed on behalf of the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli. However, on behalf of the Second Respondent/The Block Development Officer,Village Panchayat, Alangulam, Tirunelveli District, a detailed counter is filed. At the outset, it is represented on behalf of the First Respondent before this Court that the First Respondent adopts the arguments of the Second Respondent.

8.On behalf of the Second Respondent, it is contended before this Court that the Writ Petition filed by the Petitioner is *per se* not maintainable before this Court. Further, it is the plea of the Second Respondent that prior to the passing of the impugned order, dated 13.07.2013 by the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli, a Show-cause notice was issued on 21.05.2013 to the Petitioner seeking his explanation about the irregularities committed in regard to the passing of the resolution. For the said Show-cause notice, the Petitioner had submitted a detailed explanation on 31.05.2013. In fact, only after considering the explanation of the Petitioner and other materials on record, the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli passed the impugned order, dated 13.07.2013. As such, it is the version of the Second Respondent that there is no violation of principles of natural justice and the impugned order, dated 13.07.2013 is tenable in Law.

9.Added further, the Learned Additional Government Pleader for the Second Respondent brings it to the notice of this Court that originally a complaint Petition was received by the Second Respondent from the Fourth Ward Members of Mayamankurichi Village Panchayat, Alangulam Panchayat Union, Kuruvankottai, Tirunelveli District and the Second Respondent had conducted a preliminary enquiry and submitted a report on 15.03.2013 to the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli.

10.Further, it is projected on the side of the Second Respondent that the report reveals that the special meeting, dated 31.01.2013, urgent meeting, dated 22.02.2013 and another urgent meeting, dated 05.03.2013 were conducted by the Petitioner as the President of the Mayamankurichi Village Panchayat and the resolutions passed were against Tamil Nadu Panchayat Rules.

11.The primordial submission advanced on behalf of the Second Respondent is that as per Tamil Nadu Panchayats(Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat) Rules,1999 vide



G.O.Ms.No.167, Rural Development (C-4), dated 09.08.1999 informs of Rule 4(1), there must be not less than three clear days notice for meeting, specifying the date and time, the place of meeting and the business to be transacted thereat.

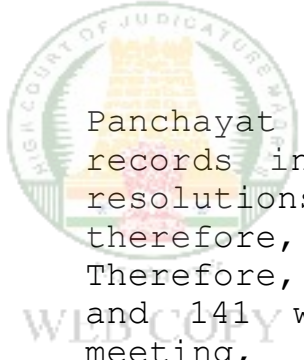
12. Also on behalf of the Second Respondent, attention of this Court is invited to the ingredients of Rule 8 of the Tamil Nadu Panchayats (Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat) Rules, 1999, which under the caption of '**Validity of Meeting**', which reads as under:

"The entire proceedings shall be invalid if the notice of meeting with Agenda is not served to any member of the Village Panchayat."

13. The Learned Additional Government Pleader for the Second Respondent strenuously projects an argument that only on the basis of the aforesaid Rules 4 and 8 of the Tamil Nadu Panchayats (Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat) Rules, 1999, and on the basis of the report of the Second Respondent, it is **prima facie** found that the special meeting, dated 31.01.2013 and the urgent meeting, dated 22.02.2013 and another urgent meeting, dated 05.03.2013 are in violation of the Rules therein. Therefore action was taken by the First Respondent/The District Collector/Inspector of Village Panchayats, Tirunelveli District, Tirunelveli under Section 202 of the Tamil Nadu Panchayats Act, 1994.

14. The Learned Additional Government Pleader for the Second Respondent proceedings to take an emphatic stand that the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli had followed the ingredients of Section 202(2) of the Tamil Nadu Panchayat Act, and as such, the order, dated 13.07.2013 passed by the First Respondent is perfectly valid in Law.

15. The Learned Additional Government Pleader for the Second Respondent contends that based on the detailed report of the Second Respondent, dated 15.03.2013 and from the records, it transpired that for the special meeting, dated 31.01.2013, the Petitioner had served the meeting notice only on 29.01.2013 and as such, it is crystalline clear that there is no three days clear notice. Therefore, it is represented on behalf of the Second Respondent that the special meeting, dated 31.01.2013 and Resolution No.123 of the said meeting are contrary to Rule 4(1) of the Tamil Nadu Panchayats (Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat) Rules, 1999 and hence, the same was cancelled. As far as the urgent meeting, dated 22.02.2013, the record reveals that the meeting notice contained 12 subjects and the same was circulated to the



Panchayat Members. However, the Minutes of the meeting and other records indicate that besides 12 subjects, 8 more additional resolutions were passed without any notice to the members and therefore, there is no negation of Rule 4(2) of the,1999. Therefore, the Resolution Nos.131, 132, 133, 134, 137, 138, 140 and 141 were cancelled. Also that, in regard to the urgent meeting, dated 05.03.2013, the records indicate that no meeting notice with agenda was served to one Pulikutti, member of the Village Panchayat and therefore, there is violation of Rule 8 of Tamil Nadu Panchayats(Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat)Rules and for the said reason, the Resolution Nos.142, 143 and 144 were cancelled.

16.In short, the pith and substance of the arguments advanced on behalf of the Second Respondent is that the impugned order, dated 13.07.2013 of the First Respondent cancelling the resolutions were clearly based on record and also rested on the report of the Second Respondent, dated 15.03.2013 and only after considering the materials on record, the impugned order in the instant case came to be passed.

17.Lastly, it is represented on behalf of the Second Respondent that the Petitioner, if at all, is aggrieved by the First Respondent/The District Collector/Inspector of Panchayats, Tirunelveli District, Tirunelveli, then he should have approached the Director of Rural Development and Panchayat Raj, Chennai through a revision under Section 219 of the Tamil Nadu Panchayats Act, 1994.Without exhausting the effective, efficacious, viable and alternative remedy, the Petitioner has filed the present Writ Petition before this Court, which is a premature one.

18.On a careful consideration of the contentions advanced on behalf of the Second Respondent and also this Court taking note of the stand taken by the Petitioner in the Writ Petition, this Court comes to a resultant conclusion that the impugned order passed by the First Respondent is quite clearly in conformity with the ingredients of the Tamil Nadu Panchayats Act, 1994 and Tamil Nadu Panchayats(Quorum and Procedure for the Convening and Conduct of Meetings of Village Panchayat)Rules. As such, the impugned order, dated 13.07.2013 is perfectly legal and it is free from any flaw. Consequently, the Writ Petition stands merits.

19.In fine, the Writ Petition stands dismissed, leaving the parties to bear their own costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (W)

Sub Assistant Registrar



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

2.The Block Development Officer,
Village Panchayat,
Alangulam,
Tirunelveli District.

+1CC to Mr.S.Palani Velayutham, Advocate Sr.No.35247
+1CC to Spl.Government Pleader Sr.No.35165

GJM/PEK/15.7.16-6p-5c

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