

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2017

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THE HONOURABLE MR.JUSTICE M.M.SUNDRESH

W.P.No.13783 of 2014

And

M.P.No.1 of 2014

S.Ravi (Former President of Aalalasundharam Village Panjayat)
... Petitioner

Vs.

1. The Inspector of Village Panchayats/
The District Collector,
Nagapattinam,
Nagapattinam District.
 2. The Assistant Director of Rural Development (Auditing),
Collectorate of Nagapatnam,
Nagapattinam,
Nagapattinam District.
 3. The Block Development Officer,
Kollidam Union,
Sirkali Taluk,
Nagapattinam District.
 4. The Assistant Block Development Officer, (Auditing)
Kollidam Union,
Sirkali Taluk,
Nagapattinam District.
- ... Respondents

Prayer:

Petition filed under section 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records in Na.Ka.17/2011/A2/UE (tha), dated 06.03.2014 issued by the 1st Respondent herein through the 2nd and 3rd Respondents and quash the same, subsequently to direct the 1st Respondent herein to dispose the petitioners Appeal dated 22.11.2011 on the file of the 1st Respondent office.

For Petitioner : Mr.Dalit Tiger C.Ponnusamy

For Respondents : Mr.P.V.Selvakumar for R1 and R2
Additional Government Pleader
Mr.P.Sanjay Gandhi for R3 and R4

O R D E R

The petitioner has filed this writ petition seeking for issuance of Certiorarified Mandamus to call for the records in Na.Ka.17/2011/A2/ UE (tha), dated 06.03.2014, issued by respondent no.1 through respondent nos.2 and 3 and quash the same, subsequently to direct respondent no.1 to dispose the petitioner's Appeal dated 22.11.2011 on the file of respondent no.1's office.

2.By the proceedings dated 16.10.2011, surcharge proceedings has been concluded against the petitioner asking him to pay a sum of Rs.5,02,589/-. The said order itself says that if the petitioner is desirous of filing an appeal, he can do so before the Inspector of Panchayats - The District Collector, Nagapattinam.

3.Accordingly, the petitioner filed the appeal. The appeal was not entertained by respondent no.1 on the premise that as a pre-condition, he has to pay the entire amount. Challenging the same, the present writ petition has been filed.

4.As rightly submitted by the learned counsel appearing for the petitioner that even the order dated 16.10.2011, makes the specific reference about an appeal under Rule 5 of Surcharge Rules. Thus, when such statutory appeal is filed, it cannot be said that it would be entertained only on the condition that the petitioner pays the entire amount imposed by respondent no.2. The said condition is erroneous apart from onerous, as statutory appeal cannot be refused to be taken up on file when a statute does not mandate any pre-deposit. However, the learned counsel appearing for the petitioner fairly submits that the petitioner would show his bonafide by paying a sum of Rs.1,00,000/- without prejudice to the contentions in the appeal.

5.Accordingly, the impugned order stands set aside on the condition that the petitioner pays a sum of Rs.1,00,000/- (Rupees One Lakh Only), within a period of four weeks from the date of receipt of a copy of this order, of-course, without prejudice to the contentions in the appeal. Respondent no.1 shall entertain the appeal and dispose it of, after issuing

notice to the petitioner, within a period of three months from the date of receipt of a copy of this order.

6. Accordingly, the writ petition is allowed. No costs. Consequently, the connected miscellaneous petition is also closed.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Village Panchayats/
The District Collector,
Nagapattinam,
Nagapattinam District.
2. The Assistant Director of Rural Development (Auditing),
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Nagapattinam,
Nagapattinam District.
3. The Block Development Officer,
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Sirkali Taluk,
Nagapattinam District.
4. The Assistant Block Development Officer, (Auditing)
Kollidam Union,
Sirkali Taluk,
Nagapattinam District.

+1 cc to M/s.Dalit Tiger Advocate sr 37567 dt 07/08/2017

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RJ(CO)
CS/18/05/17