

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2017

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.2683 of 2011
and
M.P.No.2 of 2011

Jacob

.. Petitioner

vs.

The Block Development Officer,
Office of the Block Development Officer,
Thiruvalangadu,
Thiruvalluvar District.

... Respondent

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari to call for the records relating to the impugned order passed by the respondent in Na.Ka.No.24/2010/A7, dated 19.01.2011 and quash the same.

For petitioner : Mr.P.R.Thiruneelakandan

For respondent : Mr.D.K.Ravishankar

ORDER

The petitioner has filed the present Writ Petition for the relief stated above.

2. The learned counsel for the petitioner submitted that 15 years ago, the petitioner was elected as a Panchayat President in Pagasalai Panchayat and held the office of Panchayat President for five years. During his tenure, he discharged his duties as a Village President without any blemish. Thereafter, three persons succeeded the office of the Panchayath President. While so, on 6.7.2010, by letter reference Na.Ka.No.24/2010/A7, the Block Development Officer, Thiruvalangadu/respondent herein, issued notice stating that the petitioner has to remit an amount of Rs.2,60,849/- to the Panchayath towards the loss caused to the panchayat during his tenure as President. On receipt of the notice, he sent a representation dated 13.8.2010 to the respondent Block Development Officer, Thiruvalangadu stating that during his period, he furnished all the accounts properly before the

Thirupachur Block Development Officer and to the best of his knowledge, there was no pending amount in the Panchayath account. He has also sought the audit report of the Assistant Director Na. No.669/01/A8, which was cited as reference in the said notice. Without furnishing any copy of the audit report, the respondent issued another notice dated 6.7.2010 and 09.11.2011 demanding to pay the alleged loss of a sum of Rs.2,60,849/- and threatened to take action under the Revenue Recovery Act in the event of default in remittance of the alleged loss. He appeared in person before the respondent and explained the fact and requested the respondent to furnish a copy of the audit report and to afford an opportunity to submit his explanation to the audit report. Without considering his request, again on 19.1.2011, the respondent issued another notice demanding to pay the aforesaid sum. As the petitioner has not been furnished audit report and afforded an opportunity to offer his explanation thereto, there is violation of principle of natural justice in issuing the impugned order by the respondent. Hence, the impugned order is liable to be quashed.

3. The learned counsel for the respondent submitted that as per the Local Fund Audit under Section 193 of the Tamil Nadu Panchayat Act, 1994 appointed the auditor and perused the entire records with respect to the accounts of receipts and expenditure of the Panchayat funds. In that auditing, it was found that there was a huge pecuniary loss to the tune of Rs.2,60,849 to the respondent panchayat and audit objections arose against the petitioner and show cause notice has been issued within the time limit stipulated in the Panchayat Act. Subsequently, the respondent issued notices seeking explanation from the petitioner. As there was no response from the respondent, the surcharge proceedings has been initiated against the petitioner through Proceedings Na.Ka.No.669/2001/A3 dated 24.4.2003 and the same has been served on the petitioner by the office of the Assistant Director of Panchayat on 28.4.2003 and this fact has not been mentioned in the affidavit by the petitioner.

4. Heard the learned counsel for the petitioner as well as the respondent.

5. The allegation of the petitioner is that he has not been furnished a copy of the alleged audit report and the impugned order has been passed without affording an opportunity to him. Therefore, the respondent violated the principles of natural justice. It is pertinent to note that the respondent has not made any reference in the present impugned order with regard to the final order passed in the earlier proceedings of the Assistant Director of Panchayat, dated 24.4.2003, which would go to show that the petitioner has not been afforded an

opportunity to offer his explanation. As such, there is violation of principle of natural justice as contemplated under the provisions of law in passing the impugned order. Hence, I have no hesitation to quash the impugned order. Accordingly, the impugned order is quashed and the Writ Petition is allowed. No costs. Connected Miscellaneous Petition is closed. However, it is open to the respondent to proceed with the matter in accordance with law, if so advised.

s/d-
Assistant Registrar(CS-VI)

True Copy

Sub-Assistant Registrar

asvm

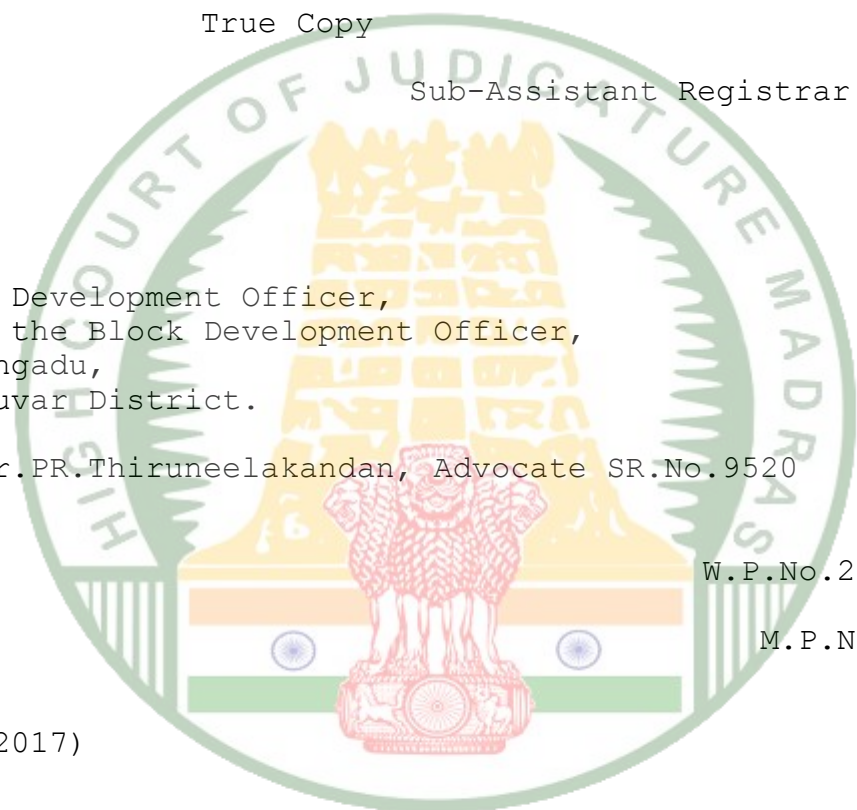
To

The Block Development Officer,
Office of the Block Development Officer,
Thiruvalangadu,
Thiruvalluvar District.

+lcc to Mr.PR.Thiruneelakandan, Advocate SR.No.9520

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SKV (CO)
GN(06/04/2017)

The seal of the High Court of Judicature Madras is a circular emblem. It features a central yellow temple gopuram (tower) with a red lion standing in front of it. The lion is facing forward and is flanked by two smaller lions. The entire emblem is set against a green background with a white border. The words "HIGH COURT OF JUDICATURE MADRAS" are written in a circular path around the central emblem. Below the emblem, the Sanskrit motto "सत्यमेव जयते" (Satyameva Jayate) is written in Devanagari script.

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