

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.73 of 2013

K.Saravanamoorthy

.. Petitioner

Vs

1.The Collector / Inspector of Panchayat,
Thiruvallur, Thiruvallur District.

2.The President,
Sevvapettai Panchayat,
Thiruvallur Panchayat Union,
Thiruvallur District.

..Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue an appropriate Order, Directions or Writ including a Writ of certiorarified mandamus to call for calling for the records relating to the impugned order of the first respondent in Na.Ka.17108/2012 PD-I dated 10.09.2012 and the subsequent impugned order of the second respondent in Proceedings No.1/2012, dated 20.12.2012 and quash the said orders and direct the respondents to reinstate in service with all attendant benefits.

For Petitioner : Mr.P.Rajendran

For Respondents : Mr.K.Dhanajeyan for R1
Special Government Pleader

Mr.J.ThilagaRaj for R2

ORDER

The petitioner has come forward with this writ petition, by challenging the order of removal.

2. In the affidavit filed in support of this writ petition, the petitioner states that he was appointed as Panchayat Secretary in Sevvapettai Panchayat, Thiruvallur Panchayat Union on 28.11.1997.

3. The learned counsel appearing for the writ petitioner has taken this Court to the order passed by the District Collector in proceedings dated 10.09.2012. The said order states about the action to be initiated against Thiru.K.Saravanamoorthy, Secretary, Sevvapettai Panchayat, under Tamil Nadu Panchayats Act 1994 and the punishment to be imposed under Section-106 of the said Act.

4. The learned counsel contended that the District Collector can direct the disciplinary authority to initiate action and to conduct enquiry in accordance with the procedures contemplated and he cannot straight away impose punishment on any employees of the Panchayat, which is in violation of the principles of natural justice.

Further, the Collector has fixed his mind in respect of the allegations mooted out against the Writ petitioner.

5. This apart, an order of removal was passed without conducting any domestic enquiry as prescribed under the rules. No man can be punished without enquiry and with regard to this legal principle, the removal of a public servant without conducting enquiry, the said order is liable to be quashed.

6. In the case on hand, on both counts, the writ petition deserves consideration. Firstly, Collector in his order directed the disciplinary authority to impose any punishment under section 106 of the Act and consequently the writ petitioner was removed from service without conducting any domestic enquiry. Therefore, the impugned order of removal is in violation of Article 311(2) of the Constitution of India.

7. Accordingly, the writ petition is allowed and the impugned order is quashed. However, the respondents are at liberty to proceed with the disciplinary proceedings, in accordance with the procedure contemplated under the Rules and pass fresh orders by affording reasonable opportunity of hearing to the writ petitioner.

28.04.2017

rpa/dna/gsk

To

- 1.The Collector / Inspector of Panchayat,
Thiruvallur, Thiruvallur District.
- 2.The President,
Sevvapettai Panchayat,
Thiruvallur Panchayat Union,
Thiruvallur District.

S.M.SUBRAMANIAM,J.

W.P. No.73 of 2013

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