



## BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 31.07.2017

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THE HONOURABLE MR.JUSTICE R.MAHADEVAN

W.P. (MD) No.18708 of 2016andW.M.P (MD) No.13543 of 2016

A.S.Ganesan

... Petitioner

Vs.

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

2.The Block Development Officer,  
Village Panchayats,  
Manur,  
Tirunelveli District.

... Respondents

**PRAYER:** Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, calling for the records of the order of removal passed by the first respondent in his proceedings in 216/4951/2014 dated 19.09.2016 and consequential gazette notification in No.VI(2)120(g-1)/2016 dated 20.09.2016 and quash the same as illegal and without any authority of law.

For Petitioner : Mr.N.Valli Nayagam, Senior Counsel  
for Mr. D.Nallathambi

For Respondents : Mr.S.Kumar,  
Additional Government Pleader

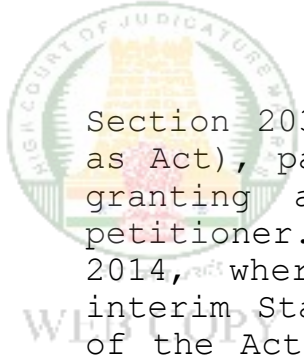
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ORDER

The petitioner seeks for a Writ of Certiorari to quash the impugned order passed by the first respondent in 216/4951/2014 dated 19.09.2016 and the consequential gazette notification in No.VI(2)120(g-1)/2016 dated 20.09.2016.

2. The case of the petitioner, in nutshell, is as follows:

2.1.The petitioner was elected as President for the Pettai Rural Panchayat, Tirunelveli District, for the period 2011-16. On 22.11.2013, the petitioner was served with a show cause notice, by which, he was asked to give reply for the building plan approvals given by him, in respect of Kodeeswaran Nagar. Pursuant to the same, the first respondent herein, by invoking his power under



Section 203 of the Tamil Nadu Panchayat Act, 1994 (herein referred as Act), passed an order dated 07.12.2013, vide which, the power of granting approval for building plan was taken away from the petitioner. The said order was challenged in W.P(ND)No.15539 of 2014, wherein, this Court, by order dated 18.09.2014, granted interim Stay, on the same. Thereafter, by invoking Section 205(1) of the Act, the first respondent passed an order dated 14.10.2014, vide which, the cheque signing power of the petitioner was taken away from him. This order was also challenged in W.P(MD)No.17298 of 2014, wherein, this Court, by order dated 28.10.2014, granted interim Stay, on the same. These two writ petitions are said to be pending.

2.2.While so, the first respondent by proceedings in 6/4772/2013 dated 09.10.2014, invoking Section 205(1)(a) of the Act, directed the Thasildar, Manur, to convene a meeting, to record the views of the Council of the village Panchayat. Though the members of the Council stood behind the petitioner, the first respondent without giving any opportunity to the petitioner, removed him from the post of President on 19.09.2016, and published the same in the Government Gazette on 20.09.2016, without communicating the same to him. Aggrieved by which, the petitioner is before this Court, praying for quashing the impugned order.

3.The learned senior counsel appearing for the petitioner submitted that for removing the petitioner from the post of President, opinions were called for from the Council members and subsequent thereto, the District Collector, by invoking Section 205 of the Act, passed the present impugned order, which was quite contrary to the decision taken by the Council members. The same is in violation of principles of natural justice, because while doing so, enough opportunity should be given to the petitioner, to put forth his case. In support of his contention, the learned senior counsel for the petitioner placed reliance on the Full Bench Judgment in the case of District Collector, Villupuram and others vs. Devi Parasuraman, dated 19.08.2009, reported in 2009 (7) MLJ 417 FB.

4.The learned Additional Government Pleader appearing for the respondents, on the other hand, fairly submitted that no opportunity has been granted to the petitioner, before taking a different stand than that of the stand taken by the Council members.

5.Heard the learned senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6.The Full Bench of this Court, in the case in District Collector and others vs. Devi Parasuraman, in W.A.Nos.1257 and 1258 of 2008, dated 19.08.2009, has held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>

.... 15. An order passed by a statutory authority if visited with civil or evil consequences must meet the test of



reasonableness. If it prejudicially affects the subject, for example, the President in the present case, then the authority should give reasons. In the case of *Consumer Action Group v. State of T.N.* (supra) the Supreme Court held that application of mind of an authority at a particular point of time could only be revealed when the order records its reasons. Therefore, under Section 205, if the Inspector being satisfied with the explanation drops the proceeding, he should record it in the proceeding. In case of unsatisfactory explanation or non-explanation, the Inspector cannot take a decision of his own, but required to forward the matter to the Tahsildar for the decision of the Village Panchayat. It is the Village Panchayat, which records reasons in its minutes of the meeting. Normally, the Inspector has to act on such decision. In such case, reason being on record, for acceptance of such report no further reason required to be recorded by the Inspector. However, in case the Inspector differs with the decision of the Village Panchayat, to test the reasonableness of such decision, the Inspector is not only supposed to record the reason, but also required to follow the rules of natural justice by communicating the reasons to the President by giving an opportunity to explain before coming to a conclusion"....

7.The above case squarely applies to the present case on hand. As rightly pointed out by the learned senior counsel for the petitioner, before taking a decision, which was different from the decision taken by the Council members, no opportunity was given by the District Collector / first respondent to the petitioner. On that score alone, the impugned order is liable to be set aside.

8.In result, the writ petition is allowed and the impugned order dated 19.09.2016, passed by the first respondent in 6/4951/2014 is set aside and the matter is remitted back to the first respondent. The first respondent is directed to pass appropriate orders, in this subject matter, after affording due opportunity of hearing to the petitioner, within a period of two weeks from the date of receipt of a copy of this order. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-  
Assistant Registrar(CS-III)

/True Copy/

Sub Assistant Registrar

To

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



2.The Block Development Officer,  
Village Panchayats,  
Manur,  
Tirunelveli District.

+1cc to THE SPECIAL GOVERNMENT PLEADER in SR. No.69366

+1cc to Mr.D.NALLATHAMBI Advocate in SR. No.69203

GK

JS/SKN.RSK/SAR.4/16.08.2017/2P-5C

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**and**

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