IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.07.2018

CORAM

THE HONOURABLE MR. JUSTICE K.KALYANASUNDARAM

WP.No.7477 of 2016 &
W.M.P.No.6692 of 2016

M.Vijaya Manimaram ...Petitioner

Vs.

1.The District Collector (Inspector of Panchayats),
Salem District,
Salem.

2.The Assistant Director of Rural Development (Audit),
Salem District.

3.The Block Development Officer,
Village Panchayat,
Veerapandi Panchayat Union,
Salem District. ...Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the Surcharge notice dated 27.01.2016 bearing Roc.No.1623/2014/A4 passed by the second respondent and quash the same.

For Petitioner : Mr.V.Suthakar

For Respondents : Mr.N.Inbanathan
Additional Government Pleader

ORDER

The petitioner would state that she was elected as a President of Maramangalathupatti Village Panchayat, Salem District for two tenures viz., 2001-2006 and 2006-2011. The second respondent issued a Surcharge Notice dated 27.05.2014 on the ground that the petitioner had caused loss of Rs.28,05,419/- to the Panchayat. Since the Surcharge Proceedings were initiated based on the audit objections, the petitioner sought for the details of the audit objections to submit her explanation, but without providing documents, the enquiry was concluded.

2. The further case of the petitioner is that in W.P.No.18808 of 2015, the Surcharge notice dated 27.05.2014 was set aside and the respondent was directed to give the documents as per Rule 3(2) of the Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules 2000. The petitioner would allege that despite the order of this Court, the impugned Surcharge Notice was issued without furnishing the necessary documents. On that ground, the petitioner challenges, the Surcharge notice dated 27.01.2016.

3.The second respondent has filed a detailed counter affidavit denying the allegations of the petitioner and it is stated that in exercise of powers under Sections 200, 201 & 204 of the Tamil Nadu Panchayat Act, 1994 and Rule 8 of the Tamil Nadu Panchayats (Issue and disposal of Audit Report) of Village Panchayats Rules 2000 and G.O.(Ms)No.59, Rural Development (C-4) Department, dated 07.03.2000, the first respondent issued instructions to the second respondent to inspect Village Panchayat accounts of Maramangalathupatti and accordingly, the second respondent submitted his report dated 27.03.2014. Based on the inspection report, the Surcharge notice was issued to the petitioner.

4. It is further stated that the petitioner has requested the copies of bank statements and connected audit reports for the period between 11.12.2006 and 24.03.2011 to submit her reply to the impugned Surcharge Notice and accordingly records have been sent to the petitioner on 12.04.2018, which was acknowledged by the petitioner on 18.04.2018. In addition, xerox copies of cash book entry has been sent to the petitioner by the third respondent on 13.07.2018 and hence, the Writ Petition is liable to be dismissed.

5. Heard Mr.V.Suthakar, learned counsel for the petitioner; Mr.N.Inbanathan, learned Additional Government Pleader for the respondents and perused the materials available on record.

6. The impugned notice has been challenged mainly contending that in spite of the directions of this Court in the earlier Writ Petition in W.P.No.18808 of 2015, the respondents without furnishing those documents, proceeded to give the present notice. It is true that the documents sought for by the petitioner were not furnished before the impugned Surcharge Notice came to be issued, however, indisputably, the petitioner has now received the entire documents and hence, I do not find any reason to quash the impugned Surcharge Notice.

7. In the light of the above facts, the petitioner is directed to give her reply, if any, to the impugned notice within a period of two weeks from today. Thereafter, the respondents shall proceed further and pass appropriate orders on merits and in accordance with law, after providing opportunity to the petitioner, as expeditiously as possible. Taking note of the fact that the petitioner demitted her office in the year 2011 and the Surcharge proceedings were initiated in the year 2014, the respondents shall conclude the enquiry proceedings within a period of three months.

8. With the above directions, the Writ Petition is disposed of. There is no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

p v s / r n s

To

1.The District Collector (Inspector of Panchayats),
Salem District,
Salem.

2.The Assistant Director of Rural Development (Audit),
Salem District.

3.The Block Development Officer,
Village Panchayat,
Veerapandi Panchayat Union,
Salem District.

+1cc to Mr.V.Suthakar, Advocate, S.R.No.50094
+1cc to Mr.Inbanathan, Advocate, S.R.No.49856

WP.No.7477 of 2016 &
W.M.P.No.6692 of 2016

BM 26/07/2018