



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2018

CORAM

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P (MD) No.11859 of 2011

and

M.P. (MD) No.1 of 2011

M.A.Vanitha

... Petitioner

Vs

1. The District Collector,
Ramanathapuram District,
Collectorate,
Ramanathapuram Post.
2. The Assistant Director of
Village Panchayats,
Collectorate,
Ramanathapuram Post & District.
3. The Block development Officer (Panchayats),
Bogalur Panchayat Union,
Bogalur Post,
Ramanathapuram District.

4.S.Rajagopal

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records in pursuant to the impugned order issued by the first respondent in proceedings Na.Ka.M.1/16199/2011 dated 14.09.2011 and quash the same.

For Petitioner : Mr.Saravanakumar

For Respondents : Mr.M.Muthu

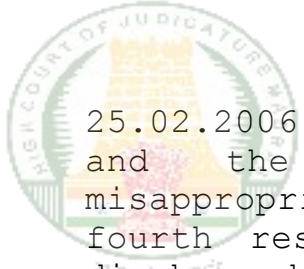
Additional Government Pleader
for R.1 to R.3

:Ms.P.Kalaiyarasi Bharathi for R4

ORDER

This writ petition was filed challenging the order passed by the first respondent in proceeding dated 14.09.2011.

2.The present writ petition is filed by the former president of the Muthuvayal Village Panchayat, challenging the order of the District Collector dated 14.09.2011 cancelling the order of termination issued against the fourth respondent in proceeding dated 27.01.2011. The writ petitioner states that she was elected as president of Muthuvayal Village panchayat and assumed office on

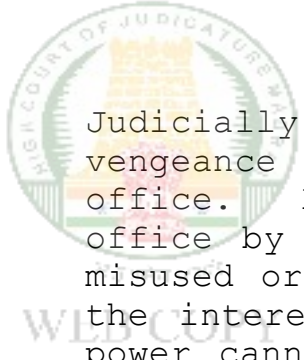


25.02.2006. The fourth respondent was working as Panchayat clerk and the fourth respondent, using forgery signature, misappropriated the Village funds. Further, it is stated that the fourth respondent using some liquor during office as and not discharged his official duties. The writ petitioner states that she issued show cause notice to the fourth respondent on 11.08.2010 and directed the fourth respondent to submit his explanation on or before 30.08.2010, but no explanation was submitted in time, therefore the writ petitioner issued an order of suspension placing the fourth respondent under suspension with effect from 25.11.2010. The detailed charge memo was issued to the fourth respondent on 21.12.2010 and the direction was issued to submit his explanation. The fourth respondent did not appear in person nor submitted his explanation. Thus, the writ petitioner had taken a decision to terminate the services of the fourth respondent and accordingly passed the resolution in number 96 on 18.01.2011 and consequently the fourth respondent was terminated from service in proceedings dated 27.01.2011. The petitioner further states that the District Collector has erroneously canceled the termination order issued by the writ petitioner.

3.The learned counsel appearing on behalf of the the fourth respondent states that the entire order of termination formulated from and out of personal dispute between the writ petitioner and the fourth respondent. The writ petitioner, who was the former president of the Muthuvayal Village panchayat, has taken personal vengeance against the fourth respondent and terminated him from service. The District Collector, who is the Inspector of Panchayats, passed an order recording the finding that the writ petitioner had misused the power of the president and accordingly cancelled the termination order. This being the factum of the case, the writ petition deserves to be rejected.

4.The learned Additional Government Pleader also states that there was some personal dispute between the petitioner and the fourth respondent and the writ petitioner had filed a suit in O.S.No.43 of 2005 before the District Munsif Court, Paramakudi. This being the nature of personal dispute exists between the writ petitioner and the fourth respondent, the finding of the District Collector is in accordance with law. The learned Additional Government Pleader appearing on behalf of the respondents No.1 to 3 states that the order of the District Collector is a reasoned one and the termination order was cancelled recording the finding that there was an abuse of power by the former President of the Panchayat.

5.This Court is of the opinion that the public post can never be utilized for settling the score in respect of personal disputes. The public authorities are bound to function in accordance with law. Public authorities can never misuse or abuse the power. The public authorities have to exercise their powers



Judicially and in the interest of public. Even if some personal vengeance exists, the same should not reflect in the public office. Having advantage of the power provided to the public office by virtue of statute or constitution, the same cannot be misused or abused. Power and the statute has to be exercised in the interest of public and for the welfare of the public. The power cannot be used for the purpose of terminating an employee, more specifically on the ground of personal vengeance.

6.This being the factum the principles to be followed, this Court is of an opinion that the order passed by the District Collector in proceeding dated 14.09.2011 is in accordance with law and there is no infirmity. Another writ petition was filed by the writ petitioner in W.P.(MD)No.11776 of 2012 seeking reinstatement and to permit him to join duty and the same was allowed and directed the authorities to regulate the interregnum period and pay 50% of the back wages and recover the same from the ex-Panchayat president.

7.In view of the order passed in W.P.(MD)No.11776 of 2012 the present Writ Petition deserves no further consideration and accordingly stands dismissed. No costs. Consequently, M.P.(MD)No.1 of 2011 is closed.

Sd/-

Assistant Registrar(crl side)

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Ramanathapuram District,
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Ramanathapuram Post.
2. The Assistant Director of
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3. The Block development Officer (Panchayats),
Bogalur Panchayat Union,
Bogalur Post,
Ramanathapuram District.

+1cc to Ms.P.Kalaiyarasi Bharathi, Advocate Sr.No.48060
+1cc to Mr.Saravanakumar, Advocate Sr.No.48693

GSP/TA

<https://hscpc.org.in/> 13.02.2018/3P/6C

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