

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.NO.5082 OF 2013

V.K.Vasudevan

... Petitioner

Vs.

1. The District Collector,  
Vellore District,  
Vellore.
2. The Block Development Officer,  
Walaja Union, Walaja,  
Vellore District.
3. The Panchayat President,  
V.C.Mottur Panchayat,  
Walaja Union, Vellore District.
4. Mrs.L.Vijaya logan,  
Panchayat President,  
V.C.Mottur Panchayat,  
Walaja Union,  
Vellore District.

... Respondents

Prayer:

Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorarified Mandamus, calling for the entire records pertaining to order No.1/2013 dated 23.01.2013 passed by the 3<sup>rd</sup> respondent and quash the same and thereby allowing the petitioner to rejoin and continue service.

For Petitioner : Ms.Niloufer for  
Mr.K.Mohanamurali

For Respondents : Mr.K.Bhuvaneswari, AGP.  
(for R1 to R3)

## O R D E R

The instant writ petition is filed for a Certiorarified Mandamus, calling for the records pertaining to order No.1/2013 dated 23.01.2013 passed by the 3<sup>rd</sup> respondent and thereby allowing the petitioner to rejoin and continue service.

2. The petitioner joined the V.C.Mottur village panchayat on 11.11.2005, as a part time clerk. The petitioner was suspended during the panchayat elections. The suspension order has been challenged by filing the instant writ petition primarily on the ground that the Panchayat President did not have the power to initiate disciplinary proceedings against the petitioner.

3. It is pertinent to mention that the suspension has been revoked on 17.02.2016. The short issue which arises for consideration is as to whether the suspension of the petitioner is justified or not.

4. Section 106 of the Tamil Nadu Panchayat Act deals with the power to punish officers and servants of panchayats. The said Rule reads as under:-

"106. Subject to such control as may be prescribed, the executive authority, the commissioner or the chief executive officer may censure, fine, withhold increments or promotion from, or reduce to a lower rank in the seniority list, or to a lower post or timescale or to a lower stage in a time-scale, suspend, remove or dismiss any officer or servant in the service of village panchayat or panchayat union council or the district panchayat, as the case may be, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct."

5. The Executive Authority is defined in Section 2(11), which reads as under:- सत्यमेव जयते

"(11) 'executive authority' means a secretary of a village panchayat appointed by the Government under section 83;"

6. The Government of Tamil Nadu has issued the G.O.Ms.No.230, Urban Development (E5) Department, dated 15.10.1996 whereby the Panchayat President has been made the Executive Authority having the power to initiate disciplinary proceedings against the officer of the Panchayat.

7. This Court in R.Chandrasekar vs. The Inspector of Panchayats cum District Collector & Ors., (2010) 6 Mad LJ 575,

has observed as under:-

"8. Heard respective counsel and perused the records. "Inspector" has been defined in Section 2(16). The powers of the Village Panchayat President is given under Section 83 and 84 of the Tamil Nadu Panchayats Act, 1994. Those three sections can be usefully referred as follows:

"2(16) 'Inspector' means any officer not below the rank of a collector appointed by the Government to exercise or perform any of the powers or duties of the Inspector under this Act;"

"83. Executive authority of village panchayat. - The Government may, by notification, appoint any person, who shall, subject to such rules as may be prescribed, exercise the powers and perform the functions of the executive authority of a village panchayat.

84. Functions of executive authority. - The executive authority shall, -

(a) carry into effect the resolutions of the village panchayat: Provided that where the executive authority considers that a resolution has not been legally passed or is in excess of the powers conferred by this Act or that, if carried out, it is likely to endanger human life or health or the public safety, the executive authority shall refer the matter to the Government for orders and their decision shall be final;

(b) control all the officers and servants of the village panchayat;

(c) discharge all the duties specifically imposed and exercise all the powers conferred on the executive authority and subject to all restrictions and conditions imposed, by or under this Act, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes thereof."

As per Section 83, G.O.(Ms) No. 225 Rural Development (C.I) Department dated 15.10.1996 was issued by the Government, by which the President of the Village Panchayat was appointed as the Executive Authority to exercise the powers and perform the functions of the Executive Authority of that Village Panchayat. As per Section 84(b), the Executive Authority (Village President) will have control over all the officers and servants of the village panchayat.

9. Section 106 of Tamil Nadu Panchayats Act, 1994 deals with the Powers to punish officers and servants, which is extracted as follows:

"106. Power to punish officers and servants. - Subject to such control as may be prescribed, the executive authority, the commissioner or the secretary may censure, fine withhold increments or promotions from, or reduce to a lower rank in the seniority list, or to a lower post or time scale or to a lower stage in a time-scale, suspend, remove or dismiss any officer or servant in the service of village panchayat or panchayat union council or the district panchayat, as the case may be, for any breach of departmental rules or discipline, or for carelessness, unfitness, neglect of duty or other misconduct."

From the above section, it is very clear that the President of the Village Panchayat has power to control over the officers and servants and also is empowered to take action including powers to dismiss from the service of village panchayat.

10. By virtue of clause 'n' of G.O. Ms No. 230 Rural Development (E5) Department dated 15.10.1996, the Village Panchayat President has got power to appoint, to take action and to remove the officer/servant from the panchayat. If the power is to be exercised under Section 106 of the Act, G.O.(Ms) No. 175 Rural Development and Panchayats (E5) Department dated 05.12.2006 is to be followed. Clauses V & VI of the aforesaid G.O. read as follows:

"As per clause V of G.O.(Ms) No. 175 Rural Development and Panchayats (E5) Department dated 05.12.2006, the delinquent officer/servant is required to be given a notice and offered an opportunity to defend his case. Even in the absence of the aforesaid G.O., it is fundamental that a person should be heard before his right is infringed in compliance of principles of natural justice."

8. In view of the above, it cannot be denied that the Panchayat President has the power to initiate the disciplinary proceedings against the petitioner who is working as clerk in the village panchayat. In any event the petitioner has already been reinstated on 23.01.2013. The Writ petition is dismissed. No Costs.

Sd/-  
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

Pkn.

To

1. The District Collector,  
Vellore District,  
Vellore.
2. The Block Development Officer,  
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4. Mrs.L.Vijaya logan,  
Panchayat President,  
V.C.Mottur Panchayat,  
Walaja Union, Vellore District.

+1cc to Mr.K.Mohanamurali, Advocate, S.R.No.89796  
+1cc to the Government Pleader, S.R.No.89940

W.P.No.5082 of 2013

SV(CO)  
CS/04/12/2019

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