

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.09.2019

Coram:

THE HONORABLE DR.JUSTICE G.JAYACHANDRAN

Writ Petition No.26798 of 2019

Mr.R.Arujunan

.. Petitioner

/versus/

1.The District Collector/Inspector of Panchayats,
Office of the District Collector,
Coimbatore District.

2.The Assistant Director of Panchayats,
Office of the District Collector,
Coimbatore District.

3.The Assistant Director of Panchayat (Auditing),
Office of the District Collector,
Coimbatore District.

4.The Block Development Officer,
Office of the Block Development Officer,
Railway Feeder Road,
Sulur,
Coimbatore.

5.A.V.Goindaraj

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus directing the respondents 1 to 4 herein to recover the loss caused by the 5th respondent in light of letter of 2nd respondent dated Na.Ka.No.2329/2015/A3 dated 09.08.2019 within a time frame fixed by this Court.

For Petitioner :Mr.A.Edwin Prabakar

For Respondents :Mr.N.Inabanathan, AGP
for R1 to R3

Mr.A.Zakir Hussain R4
No appearance for R5

O R D E R

The prayer in the writ petition is to issue a Writ of Mandamus directing the respondents 1 to 4 herein to recover the loss caused by the 5th respondent in light of letter of 2nd respondent dated Na.Ka.No.2329/2015/A3 dated 09.08.2019 within a time frame fixed by this Court.

2.The petitioner herein being Ex-Member of Ward No.10 in Arasur Panchayat has filed this writ petition alleging that between 2011 and 2016 when the 5th respondent was the President of the Panchayat and the petitioner was the Ward Member, the 5th respondent has indiscriminately misused the funds of the Panchayat by fabricating bills and misappropriated Rs.2.18 crores. A complaint was given by him and other Ward Members on various dates along with proof of misappropriation committed by the 5th respondent. Since the action was not taken against him, the petitioner has filed W.P.No.35434 of 2015 seeking direction to take action against the 5th respondent. In that writ petition, this Court directed the first respondent, who is the Inspector of Panchayats, to consider the representation of the petitioner and pass orders within a period of eight weeks.

3. Thereafter, the action was initiated under Section 205 of the Tamil Nadu Panchayats Act, 1994 calling upon the 5th respondent to submit his explanation for the charges framed against him. Meanwhile, the Director of Vigilance and Anti-Corruption has also registered a case against him in Cr.No. 11/2015/AC/C under Sections 13(2)r/w 13(1)(c), 13(1)(d) and 13(1)(e) of Prevention of Corruption Act and Section 409 of the Indian Penal Code, which is under investigation. Due to dilatory tactics of the 5th respondent, action initiated by the Inspector of Panchayats under Section 205 of the Tamil Nadu Panchayat Act, 1994 could not get fructified. Due to writ petition filed by the petitioner, the meeting could not be convened till the term of the Board got expired. The present writ petition is filed by the petitioner to take appropriate action against the 5th respondent for recovery of the loss committed by him.

4. In the counter filed by the 4th respondent, it is submitted that pursuant to the investigation by the Director of Vigilance and Anti-Corruption, part of the records are in their custody and part of the records are in the Audit Department for scrutinizing the accounts of the Society. Once the records are received from the Vigilance and Anti-Corruption, they will commence the enquiry proceedings.

5. The apprehension of the petitioner herein is well found. Already the 5th respondent, when action under Section 205 of the Tamil Nadu Panchayat Act, 1994 was proposed to be

taken, had adopted all sorts of tactics till the expiry of his term. If the 4th respondent does not act with alacrity on misappropriation charge alleged by the petitioner against the 5th respondent, it will be difficult to recover the money from him. Hence, the 4th respondent shall make all endeavour to receive the records or copy of the records from the Vigilance and Anti Corruption and initiate the departmental proceedings against him at the earliest. In any event, respondents 2 and 4 shall not delay in initiating the proceedings beyond three months.

6. With the above directions, the writ petition is disposed of. No costs.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To:

1.The District Collector/Inspector of Panchayats,
Office of the District Collector,
Coimbatore District.

2.The Assistant Director of Panchayats,
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3.The Assistant Director of Panchayat(Auditing),
Office of the District Collector,
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4.The Block Development Officer,
Office of the Block Development Officer,
Railway Feeder Road,
Sulur,
Coimbatore.

+2cc to Mr.A.Edwin Prabakar, Advocate SR.83739
+1cc to the Government Pleader SR.83679

W.P.No.26798 of 2019

RSI(CO)
CB(12/11/2019)