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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 18.11.2019

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THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.12403 of 2017

and

W.M.P.No.13160 of 2019

M.Sekar

... Petitioner

..Vs..

The Personal Assistant of the
District Collector (Development),
Thiruvannamalai,
Thiruvannamalai District.

... Respondent

PRAYER : Petition filed Under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the file relating to suspension proceedings passed in Na.Ka.3002/2017/PE2 dated 17/04/2017 on the file of respondent and quash the same direct the respondent to reinstate the petitioner.

For Petitioner : Mr.R.T.Sundari

For Respondent : Mrs.K.Bhuvaneswari
Additional Government Pleader

O R D E R

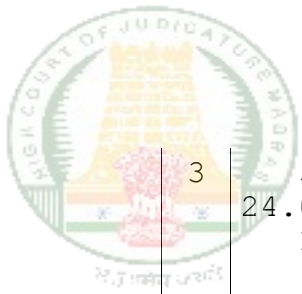
The petitioner was a Panchayat Secretary in the Respondent Panchayat Union and misappropriated Village Panchayat funds of Kuruvimalai Village in the year 2009-2011 in collusion with the then Village Panchayat President and Vice President of the said Village Panchayat and he was awarded punishment of stoppage of increment for three years in Proceedings Roc.No.13040/2011/pc2, dated 30.03.2016, subsequently the petitioner was transferred and joined duty at Krishnapuram Village Panchayat on 13.01.2015. During the annual Audit for 2015-2016 of Krishnapuram Village Panchayat came to light, that the petitioner was in collusion with the President and Vice President of the Krishnapuram Village Panchayat and involved in misappropriation of village Panchayat Funds to the tune of Rs.14,65,171/- during the years 2015-2016 and 2016-2017. Therefore, he was placed under suspension in proceedings Na.Ka.3002/2017/PC2, dated 17.04.2017 issued to the Personal Assistant to Collector (Development)



Tiruvannamalai. Further the action also initiated against the Village Panchayat President of Krishnapuram Village Panchayat under Rule 205 of Tamil Nadu Panchayat Act 1995. The petitioner is challenging the said order before this Court and the counter has been filed by the respondent in the aforesaid Counter affidavit:

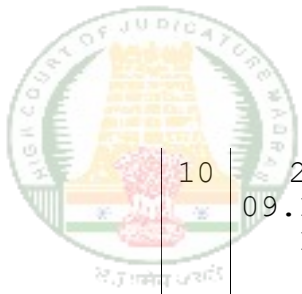
"7. As per G.O.Ms.No.43, Rural Development and Panchayat Raj Department, dated 21.02.2000, all payments for purchases, payment for contract works should be made through third party cheque only. Cash payment has been banned. In this case instead of issuing third party cheques to the concerned supplier of street light materials and to contractors in case of water supply maintenance works, the petitioner in collusion with Village Panchayat President and Vice President, has misappropriated Rs.3,80,236/- and credited the following 16 payments into his own bank Account No.030809495967 maintained in State Bank of India (ADB), Polur. These transactions are tabulated hereunder:

S No .	Voucher No./Date	Cheque No. Date	Expenditure Details	Third apty concerned	Amount paid	Name of the person into whose account the amount actually credited
1	1/ 15.04.20 15	85529/ 15.04. 15	OHT Maintenance	Sabari Motor Rewinding Works	25256/-	M. Sekar, Panchayat Secretary
2	4/ 15.04.20 15	85532/ 15.04. 15	Pipe Line Maintenance	Rajalakshmi Electricals Arni	22600/-	M. Sekar, Panchayat Secretary



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3	5/ 24.04.20 15	85533/ 24.04. 15	Street Light Maintenan ce	Rajalakshm i Electrical s Arni	36500/-	M. Sekar, Panchaya t Secretar y
4	06/ 07.05.20 15	85534/ 07.05. 15	Water Supply Maintenan ce Works	Rajalakshm i Electrical s Arni	22160/-	M. Sekar, Panchaya t Secretar y
5	08/ 18.05.20 15	85536/ 18.05. 15	OHT Maintenan ce	Sabari Motor Rewinding Works	15600/-	M. Sekar, Panchaya t Secretar y
6	10/ 24.07.20 15	85537/ 24.07. 15	Stationar y Expenses	Amma Printers	1000/-	M. Sekar, Panchaya t Secretar y
7	11/ 24.07.20 15	85542/ 24.07. 15	OHT Maintenan ce	Raman OHT Operator	15120/-	M. Sekar, Panchaya t Secretar y
8	17/ 26.10.20 15	85547/ 26.10. 15	OHT Maintenan ce	Sabari Motor Rewinding Works	23600/-	M. Sekar, Panchaya t Secretar y
9	19/ 07.11.20 15	85548/ 07.11. 15	Street Light Maintenan ce	No Entries made	23600/-	M. Sekar, Panchaya t Secretar y



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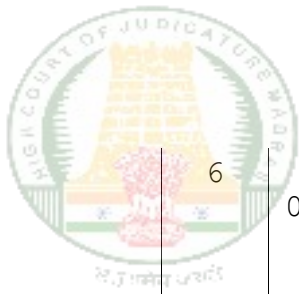
10	20/ 09.11.20 15	85549/ 09.11. 15	Pipe Line Maintenan ce	No Entries made	30300/-	M. Sekar, Panchaya t Secretar y
11	25/ 02.01.20 16	85557/ 02.01. 16	OHT Maintenan ce	Rajalakshm i Electrical s Arni	14500/-	M. Sekar, Panchaya t Secretar y
12	26/ 29.01.20 16	85546/ 02.01. 16	Street Light Maintenan ce	Rajalakshm i Electrical s Arni	16500/-	M. Sekar, Panchaya t Secretar y
13	27/ 25.02.20 16	85550/ 25.02. 16	Mini Power Pump Maintenan ce	Sabari Motor Rewinding Works	16500/-	M. Sekar, Panchaya t Secretar y
14	29/ 28.03.20 16	85558/ 28.03. 16	Pipe Line Maintenan ce	M. Sankar Contractor	61500/-	M. Sekar, Panchaya t Secretar y
15	31/ 29.03.20 16	85564/ 29.03. 16	OHT Maintenan ce	No Entries made	31000/-	M. Sekar, Panchaya t Secretar y
16	34/ 31.03.20 16	85566/ 31.03. 16	Street Light Maintenan ce	Lakshmi Electrical Arni	24500/-	M. Sekar, Panchaya t Secretar y
	Total				3,80,23 6/-	



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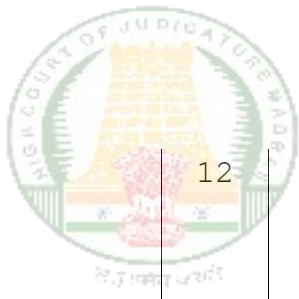
8. The petitioner in collusion with Village Panchayat President and Vice President misappropriated Village Panchayat funds to the tune of Rs.6,19,651/- from Village Panchayat Scheme Fund Account of Krishnapuram Village Panchayat, by crediting the following payments into this bank Account No.030809495967 maintained at State Bank of India (ADB), Polur Branch and the following transactions are tabulated hereunder:

S.No .	Voucher No./Date	Cheque No. Date	Third Party beneficiary Name	Amount	Name of the person into whose account the amount actually credited
1	14/ 07.11.15	404953/ 07.11.15	M. Sankar, Contractor, Kasthampadi	26173	A/C 03080949596 7 M. Sekar, Panchayat Secretary
2	15/ 07.11.15	404955/ 07.11.15	M. Sankar, Contractor, Kasthampadi	33900	A/C 03080949596 7 M. Sekar, Panchayat Secretary
3	16/ 09.11.15	404956/ 09.11.15	M. Sankar, Contractor, Kasthampadi	42860	A/C 03080949596 7 M. Sekar, Panchayat Secretary
4	17/ 17.11.15	404957/ 17.11.15	M. Sankar, Contractor, Kasthampadi	131501	A/C 03080949596 7 M. Sekar, Panchayat Secretary
5	18/ 13.11.15	404960/ 13.11.15	K. Prabu	37574	A/C 03080949596 7 M. Sekar, Panchayat Secretary



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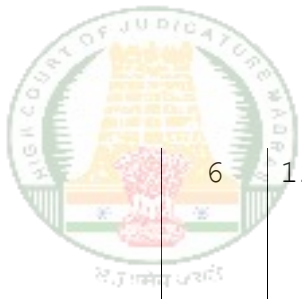
6	19/ 07.12.15	404961/ 07.12.15	M. Sankar, Contractor, Kasthampadi	36312	A/C 03080949596 7 M. Sekar, Panchayat Secretary
7	27/22.0 3.16	404958/ 22.03.16	Vadivel Polur	8500	A/C 03080949596 7 M. Sekar, Panchayat Secretary
8	-	404969/ 12.04.16	-	94256	P. Prakash, 246, Kulathu Street, Krishnapura m, 00323487705 68
9	-	404959/ 12.04.16	-	97360	P. Prakash, 246, Kulathu Street, Krishnapura m, 00323487705 68
10	-	404970/ 12.04.16	-	15600	M. Sekar, 1/101, road Street, Krishnapura m, 00308094959 57
11	-	404976/ 16.08.16	-	82200	K. Elumalai, 124, Pillayar Kovil Street, Bakmarpetta i, Murugapadi, 00314766463 2



12	-	404977/ 20.08.16	-	13415	M. Sekar, 1/101, Road Street, Krishnapura m, 00308094956 7
Total				6,19,651/-	

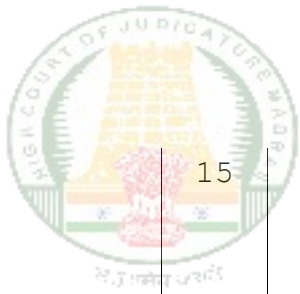
9. Further he stated in the counter affidavit that instead of making payment through 3rd party cheque to TNCMSPGH beneficiaries, the petitioner in collusion with Village Panchayat President and Vice President misappropriated Rs.5,11,440/- by crediting the following payments into the petitioners bank Account No.030809495967 maintained at - State Bank of India (ADB), Polur Branch and also into bank Account of others who are not at all related to these transactions are tabulated hereunder:

Sl.N o.	Voucher No./Date	Cheque No. Date	Amount	Third Party beneficiary Name	Bank Account No.
1	4/04.11.1 5	667354 / 04.11. 15	11660	Panchiyammal W/o. Thanjiappan	A/C 03619825020 Thanjiappan
2	5/04.11.1 5	667355 /04.11 .15	39904	Panchiyammal W/o. Thanjiappan	A/C 03619825020 Thanjiappan
3	8/05.12.1 5	667358 /05.12 .15	29760	Thanjiappan S/o Pillaiyar	A/C 03045024325 4 Pachiyamma l
4	9/05.12.1 5	667359 /05.12 .15	11660	Thanjiappan S/o Pillaiyar	A/C 03045024325 4 Pachiyamma l
5	11/04.01. 16	667361 /04.01 .16	39904	Thanjiappan S/o Pillaiyar	A/C 03188470829 9 Radha Polur



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6	12/11.01. 16	667362 /11.01 .16	29760	Manikandan	A/C 03080949596 7 M. Sekar Panchayat Secretary
7	13/11.01. 16	667363 /11.01 .16	11660	Paraman	A/C 03145766463 2 K. Elumalai Panchayat Secretary Murugapadi
8	15/12.01. 16	667365 /12.01 .16	64295	Pachiyammal	A/C 03145766463 2 K. Elumalai Panchayat Secretary Murugapadi
9	16/11.01. 16	667366 /11.01 .16	29760	Rajakili S/o. Subramani	A/C 03080949596 7 M. Sekar Panchayat Secretary
10	17/15.03. 16	667368 /15.03 .16	39904	No entries made	S. Rajakili
11	-	667370 /04.05 .16	29760	D. Pachiyammal 1980. Othavadi Street, Krishnapuram	03045024325 4
12	-	667371 /14.06 .16	52566	B. Thanchayappan, 209, Othavadi Street, Narayanamangalam	03061982502 0
13	-	667372 /20.06 .16	41600	M. Sekar, 1/101, Road street, Krishnapuram	03080949569 7
14	-	667377 /31.12 .16	22440	K. Elumalai, Panchayat Secretary, 124, Pillayar Kovil Street, Bakmarpettai, Murugapadi,	03471282460 9



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15	-	667377 /31.12 .16	56807	G. Manikandan, Panchayat Secretary, 187, Braminar Street, Sengunam.	03471282460 9
Total			5,11,4 40/-		

In many cases, even funds release intimation have not been issued by Block Development Officer (Village Panchayat) Polur which is mandatory for making payments from this Village Panchayat Fund Account 6. This is gross violation of rules and regulation. Hence criminal action is being initiated against all the three offenders. Also the petitioner in collusion with Village Panchayat President and Vice President fabricated false receipts in these misappropriation."

2. Therefore, according to the respondent, the aforesaid serious irregularities have been committed by the writ petitioner and the disciplinary proceedings and criminal action was taken by the respondent. In the light of the aforesaid counter affidavit filed by the respondent, the writ petitioner was placed under suspension by the impugned order.

3. Thereafter, the charge memo has been filed against the petitioner and enquiry is pending before the respondent. In view of the aforesaid submissions and the facts, the petition challenging the impugned suspension order, cannot be entertained and the same is unsustainable. Therefore, at this stage, this Court cannot interfere with the impugned suspension order.

4. Accordingly, this Court directs the respondent to conclude the disciplinary proceedings in accordance with law within a period of six months from the date of receipt of a copy of this order. It is made clear that the respondent should follow the procedures as contemplated under law and the petitioner is also directed to co-operate for the enquiry.

5. Hence, this Court cannot interfere with the impugned suspension order and the contention of the writ petitioner is liable to be rejected.

6. This Court by an order dated 30.04.2019, recorded the statement of the petitioner that the subsistence allowance was received from 17.04.2017 to January 2019. Further, the petitioner has submitted that the respondent has not paid the subsistence allowance from January 2019 onwards. If that being so, the respondent is directed to pass appropriate orders for rejection regarding the settlement of subsistence allowance within a period of two weeks from the date of receipt of the copy of this order (or) the respondent is directed to settle the



subsistence allowance to the writ petitioner within a period of eight weeks from the date of receipt of a copy of this order.

7. In the result, the writ petition stands disposed of, with the above observations. No costs. Consequently, connected miscellaneous petition stands closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

Pns

To

The Personal Assistant of the
District Collector (Development),
Thiruvannamalai,
Thiruvannamalai District.

+lcc to Mr.M.P.Jayaprakash, Advocate, S.R.No. 96502
+lcc to the Government Pleader, S.R.No. 96023

W.P.No.12403 of 2017

RK(CO)
GN(22/01/2020)