

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.01.2019

CORAM

THE HON'BLE MR. JUSTICE K.RAVICHANDRABAABU

W.P.No.14130 of 2017

and

W.M.P.Nos.15334 of 2017 and 35547 of 2018

Dhawood Bee Hussain
Former Chairman,
Acharapakkam Town Panchayat,
Kanchipuram District.Petitioner

vs.

1. Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai,
Guindy,
Chennai - 600 032.

2. Director of Town Panchayats,
Kuralagam,
Chennai - 600 001.

3. Executive Officer,
Acharapakkam Town Panchayat,
Acharapakkam,
Kanchipuram District.

4. Velu Jayachandran,
Nehmam Road,
Green House,
Pallipettai Village,
Acharapakkam,
Kancheepuram District.

... Respondents

Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari to call for the records pertaining to the impugned order dated 27.04.2017 in Order No.78/2017 in Complaint Petition No.603/2016/TPT-2 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.R.Neelakandan
For Respondents : Mr.B.Nedunchezhiyan
for R1
Mr.A.Kumar,
Additional Advocate General
assisted by
Mr.D.Suriyanarayanan,
Additional Government Pleader
for R2 and R3
Mr.N.Kumar Rajan for R4.

O R D E R

This writ petition is filed challenging the order of the first respondent dated 27.04.2017.

2. The petitioner was functioning as a Vice Chairman of Acharapakkam Town Panchayat during the period from 2006 to 2011 and as a Chairman of Acharapakkam Town Panchayat during 2011 to 2016. A summon dated 09.12.2016 was issued to the petitioner from the office of the first respondent to appear for an enquiry, based on a petition submitted by the fourth respondent. It seems that the grievance of the fourth respondent before the first respondent is that the petitioner, without having any competency had issued No Objection Certificate dated 11.01.2014 for a layout approval. However, the petitioner denied that the signature contained in the said No Objection Certificate is not that of the petitioner. Therefore, according to the petitioner, the said No Objection Certificate was a fabricated one. It is stated that the first respondent, after recording the statement of the petitioner, passed the present impugned order recommending the second respondent to initiate criminal proceedings to find out the veracity of the said No Objection Certificate dated 11.01.2014. Being aggrieved against the said order, the petitioner is before this Court.

3. Learned counsel appearing for the petitioner fairly submitted that the petitioner is not having any objection for referring the Certificate to the Forensic Science Department for getting expert opinion as to whether the said Certificate was issued by the petitioner or not. However, the grievance of the petitioner is that under the guise of making such enquiry, the petitioner cannot be proceeded with by any action by the police even before the report is received from the said Department.

4. Learned Additional Advocate General appearing for the 1st to 3rd respondents contended that the matter is only at the stage of sending the No Objection Certificate to the Forensic Science Department for ascertaining the material fact as to whether the

said Certificate was issued by the petitioner or not. Therefore, he contended that the above apprehension of the petitioner is not well founded.

5. Considering the above stated facts and circumstances and considering the fact that the petitioner himself is willing to refer the said Certificate to the Forensic Science Department for verification, this Court is of the view that the present Writ Petition, is highly premature as it is stated before this Court that the said Certificate has not been sent to the Forensic Science Department so far. Needless to say that only when a report is received, any further action based on such report can be taken.

6. Therefore, this Writ Petition is disposed of by directing the 2nd and 3rd respondents to refer the No Objection Certificate dated 11.01.2014 alleged to have been issued by the petitioner to the Forensic Science Department in accordance with the Rules governing such procedure. The 2nd and 3rd respondents shall make such exercise within a period of four weeks from the date of receipt of a copy of this order. Till a report is received from the Forensic Science Department, no coercive action shall be taken against the petitioner. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vsi

To

1. Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai,
Guindy,
Chennai - 600 032.
2. Director of Town Panchayats,
Kuralagam,
Chennai - 600 001.
3. Executive Officer,
Acharapakkam Town Panchayat,
Acharapakkam,
Kanchipuram District.

+1cc to Mr.R.Neelakanoan, Advocate, S.R.No.4174

+1cc to Mr.B.Nedunchezhiyan, Advocate, S.R.No.3920

+1cc to the Government Pleader, S.R.No.4545

W.P.No.14130 of 2017

NM(CO)
GSP(07/02/2019)



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