



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.11.2019

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**

W.P. (MD) .No.2738 of 2011

WEB COPY

M.Saravanakumar

.. Petitioner

Vs.

1.The District Collector,
Ramanathapuram District,
Ramanathapuram.

2.The Block Development Officer,
(Village Panchayat),
Kamudhi,
Ramanathapuram.

3.The President,
Pulvaikulam Village Panchayat,
Kamudhi Panchayat Union,
Ramanathapuram District.

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the first respondent in his proceedings M1/32964/2008, dated 15.11.2010 quash the same and consequently direct the third respondent to reinstate the petitioner with all service and monetary benefits.

For Petitioners	: Mrs.P.Kalaiyarasi Bharathi
For Respondents	: Mr.D.Muruganandam
1 & 2	Additional Government Pleader
For Respondent 3	: No appearance

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order of the first respondent dated 15.11.2010 and to direct the third respondent to reinstate the petitioner with all service benefits.

2.By the impugned order, for the proved charges against the petitioner, the petitioner was terminated from service. The petitioner was appointed as Panchayat Assistant and joined as Panchayat Assistant in the third respondent Panchayat on 05.03.1997.



The petitioner was placed under suspension by an order dated 28.06.2007 on the ground that he along with President of Panchayat has misappropriated a sum of Rs.1,24,883/-. Even though in the Writ Petition filed by the petitioner, this Court directed the first respondent to review the order of suspension, it is stated by the petitioner that the order of suspension was neither reviewed nor subsistence allowance was paid. Be that as it may, the first respondent issued a show cause notice to the petitioner on 04.11.2008. The petitioner submitted his explanation to the show cause notice framing five charges against the petitioner. Though the petitioner submitted his explanation for the charges, the impugned order is passed terminating the petitioner from service after finding the petitioner guilty of all charges. Challenging the order of termination, the above Writ Petition is filed.

3.The learned Counsel appearing for the petitioner submitted that the impugned order has been passed by the District Collector whereas the President alone is competent to initiate disciplinary action or to terminate the petitioner from service. The learned Counsel appearing for the petitioner also relied upon G.O.Ms.No.175, Rural Development and Panchayat Raj (E5) Department, dated 05.12.2006 to show that further appeal as against the order dismissing the Panchayat Assistant from service lies before the District Collector. It was therefore submitted that the District Collector is the second appellate authority. Since the order of termination is appealable before the Block Development Officer and further appeal is provided to the District Collector as against the order of termination against the Panchayat Assistant, the learned Counsel strenuously contended that the impugned order is without jurisdiction and the petitioner was denied the opportunity of fair procedure.

4.Though the submission of the learned Counsel for the petitioner is appreciable, having regard to the provisions of Section 203 of the Tamil Nadu Panchayats Act, 1994, this Court is unable to accept. The submissions of the petitioner cannot be accepted. Section 203 of the Tamil Nadu Panchayats Act reads as follows:

"203.Emergency power of Collector and Inspector.-

Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a Panchayat or Executive Authority or Commissioner or [Secretary] is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the safety of the public and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union (General) Fund or the District Panchayat (General) Fund in priority

<https://hcservices.courts.gov.in/hcservices/> charges against such Fund except charges for



the service of authorised loans."

5.From the reading of Section 203, it is evident that the Collector is empowered to do any act which a Panchayat or Executive Authority or Commissioner or Secretary is empowered to. In the present case, it is also admitted that the President is also facing charges along with the petitioner. The President of the society is facing criminal prosecution and a case has already been registered in Crime No.38 of 2010 for the offence of misappropriation and cheating. In such circumstances, it may not be proper for the President to take action against the co-accused namely the petitioner. Since the emergency power is always available to the District Collector to step into the shoes of the Panchayat President, this Court is of the view that the same has to be exercised at the appropriate time for better administration of the Panchayat. Though the learned Counsel appearing for the petitioner has not advanced any argument regarding merits, this Court is also convinced that the findings of the first respondent regarding the charges against the petitioner are supported by reasons. Hence, this Writ Petition has no merits and accordingly, the same is dismissed. No costs.

Sd/-

Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

- 1.The District Collector,
Ramanathapuram District, Ramanathapuram.
- 2.The Block Development Officer,
(Village Panchayat), Kamudhi, Ramanathapuram.
- 3.The President,
Pulvaikulam Village Panchayat,
Kamudhi Panchayat Union, Ramanathapuram District.

+1CC TO MR.P.KALAIYARASI BHARATHI, Advocate Sr. No. 99855
+1CC TO THE SPECIAL GOVERNMENT PLEADER SR.No. 100371

ORDER MADE IN
W.P. (MD)No.2738 of 2011
20.11.2019

PK(CO)

TR(09.12.2019) 3P 6C