



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE **S.M.SUBRAMANIAM**

W.P.(MD)No.3875 of 2013

and

M.P.(MD)No.2 of 2013

M.Pondurai

... Petitioner

-Vs-

1.The District Collector,
Thoothukudi District,
Thoothukudi.

2.The Assistant Director of Panchayats,
Thoothukudi District, Thoothukudi.

3.The Block Development Officer,
(Vilalge Panchayats),
Srivaikundam Union,
Thoothukudi District.

4.Agaram Village Panchayat,
Agaram, Srivaikundam Union,
Thoothukudi District represented by its
President cum Executive Authority.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned resolution No.88 passed by the fourth respondent village Panchayat dated 30.05.2008 and quash the same and consequently direct the respondents to reinstate the petitioner as Panchayat Clerk with all attendant and consequential benefits including back wages, continuity of service and all accrued benefits.

For Petitioner : Mr.N.Dilip Kumar

For R1 to R3 : Mr.S.Dhayalan

Government Advocate

For R4 : Mr.J.Ashok

for M/s Jeyapaul Associates

ORDER

The resolution No. 88 passed by the fourth respondent Village Panchayat, dated 30.05.2008 is sought to be quashed and further direction is sought to reinstate the writ petitioner as Panchayat Clerk.

2. The learned counsel for the writ petitioner states that the writ petitioner was terminated from service without even providing an opportunity. No show cause notice was issued to the



writ petitioner. No enquiry was conducted by affording an opportunity. This being the factum, the resolution is in violation of principles of natural justice.

3. The learned Additional Government Pleader appearing on behalf of the official respondents is unable to establish that an opportunity was provided to the writ petitioner before passing the impugned resolution. In the absence of any such proof to show that the show cause notice was issued to the writ petitioner, the impugned resolution has to be considered as bad in law.

4. Thus, the impugned resolution passed by the fourth respondent in resolution No.88 dated 30.05.2008 is quashed. However, this Court has decided to remand the matter back to the respondents. Accordingly, the respondents are directed to issue show cause notice setting out all facts and details to the petitioner within a period of four weeks from the date of receipt of a copy of this order. On receipt of such show cause notice, the writ petitioner is directed to submit his explanation / objection, if any, within a period of three weeks from the date of receipt of show cause notice. Thereafter, the respondents / competent authority is directed to consider the merits as well as the materials available on record, take a decision and pass orders within a period of six weeks there from. This Writ Petition is partly allowed, accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

To

- 1.The District Collector,
Thoothukudi District, Thoothukudi.
- 2.The Assistant Director of Panchayats,
Thoothukudi District, Thoothukudi.
- 3.The Block Development Officer,
(Vilalge Panchayats),
Srivaikundam Union,
Thoothukudi District.

+1 CC to Mr.N.DILIP KUMAR, Advocate SR-68403.
+1 CC to SPL GP SR-68449.

W.P. (MD) No.3875 of 2013
12.06.2019