

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.01.2020

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.4765 of 2013

and

M.P.No.2 of 2013

R.Elumalai

.. Petitioner

-vs-

1.The District Collector,
Villupuram.

2.The Assistant Director (Village Panchayats),
Villupuram, Villupuram District.

3.The Block Development Officer,
Vanur Panchayat Union,
Villupuram District.

4.V.Kasthuri,
W/o.Vasudevan,
President,
Nallavur Village Panchayat,
Vanur Panchayat Union,
Villupuram District.

5.Mr.Sakthivel,
Vice-President,
Nallavur Village Panchayat,
Vanur Panchayat Union,
Villupuram District.

.. Respondents

Petition under Article 226 of the Constitution of India
praying for issuance of Writ of Certiorari to quash the impugned
order in Na.Ka.No.A6/2677/2012-5 dated 07.09.2012, passed by the
first respondent and quash the same as illegal.

For Petitioner :Mr.M.Natarasan

For Respondents:RR1 & 2 - Ms.A.Sri Jayanthi,
Special Government Pleader

:R3 - Mr.B.Anand

:RR4 & 5 - No appearance

ORDER

This writ petition has been filed challenging an order passed by the first respondent dated 07.09.2012, placing the petitioner under suspension or in other words, preventing him to discharge the duties and responsibilities as a Secretary of Nallavur Village Panchayat.

2.The case of the petitioner is that he is absolutely innocent and due to the animosity and enmity attitude of the 4th respondent, the then President of the panchayat and the 5th respondent, the then Vice President, the petitioner has been unnecessarily dragged on into the proceedings, which were initiated against the 4th and 5th respondents under Section 206(1) of the Tamil Nadu Panchayats Act, 1994.

3.Further, the petitioner's case is that his wife Tmt.E.Savithri contested election against the fourth respondent and was unsuccessful and this is also one more reason to fix the petitioner and he has been penalised without committing any malpractice. Though at the first blush, the Court was of the impression that it is a case of prolonged suspension, that is, from the year 2012 and therefore, the suspension itself could be treated as a punishment, but however, on a perusal of the additional counter affidavit filed by the then District Collector of Villupuram District, it is seen that during the course of enquiry, several allegations of misappropriation have been created and the counter affidavit proceeds to state that the petitioner has committed gross misappropriation of the panchayat funds allotted for the workers under the MGNREGS Scheme etc.

4.Prima facie, this Court is of the view that the allegations set out in the counter affidavit appear to be very serious and it is not clear as to why the enquiry, which commenced in the year 2013, had been prolonged for such a long period and even as on date, it appears that the Collector has not passed any orders against the first respondent.

5.Further, from the additional counter affidavit, it is not clear as to whether any charge memo has been issued to the petitioner because, the impugned order states that while preventing the petitioner from discharge of his official duty, a separate charge memo would be issued. It is the emphatic statement of the learned counsel for the petitioner that till date, no charge memo has been issued. However, as stated earlier, from the counter affidavit, it is not clear as to whether any charge memo has been issued, but what could be seen is that enquiry at all levels have been conducted from the year 2012-13 and this Court fails to understand as to why proceedings have not been initiated and culminated against the writ petitioner. That apart, it is not clear as to why final report has not been submitted by the Superintendent of Police, Villupuram.

6.Given the attendant circumstances as to how the matter has proceeded, this Court would be justified in presuming that certain people within the department are attempting to seal the people, who misappropriated the Government funds presumably due to political influence exerted by respondents 4 and 5. However, this Court does not wish to make any conclusive statement in this regard, but would make this as an observation considering the factual position.

7.Given circumstances, this Court is not inclined to interfere with the impugned order, more particularly considering the seriousness of the allegations made against petitioner as set out in the additional counter affidavit filed by the District Collector, Villupuram.

8.For the above reasons, this writ petition is dismissed. However, there will be a direction to the District Collector, Villupuram to complete the enquiry proceedings and conclude all proceedings against the petitioner not later than three months from the date of receipt of a copy of this order. The District Collector is directed to call for a report from the Superintendent of Police, Villupuram as to why final report was not filed when the FIR was registered on 05.10.2012 in Crime No.21/2012 on the file of District Crime Branch, Villupuram. This Court would be justified in presuming certain collusion by the police authorities also. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-VI)

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Sub Assistant Registrar

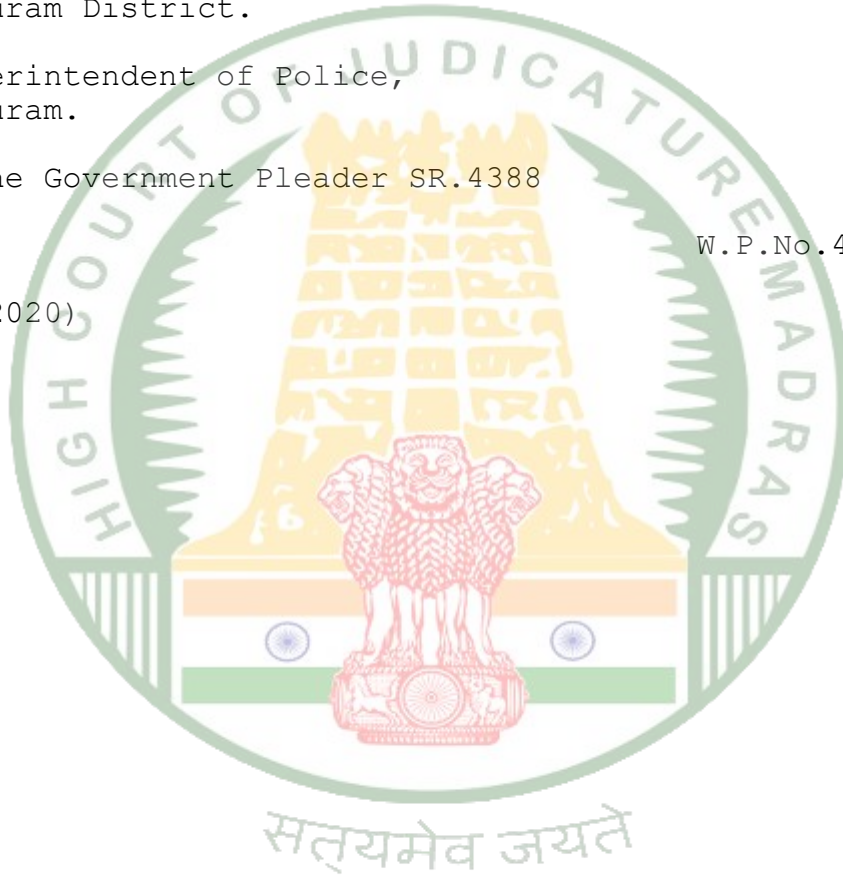
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To

- 1.The District Collector,
Villupuram.
- 2.The Assistant Director (Village Panchayats),
Villupuram, Villupuram District.
- 3.The Block Development Officer,
Vanur Panchayat Union,
Villupuram District.
- 4.The Superintendent of Police,
Villupuram.

+1cc to the Government Pleader SR.4388

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PA(CO)
CB(02/03/2020)



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