



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN, J

W.P. (MD)No.5698 of 2020

V.P.Ammavasai

... Petitioner

vs.

The Commissioner,
Usilampatti Union,
Usilampatti,
Madurai District.

... Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondent herein to facilitate to access the records/documents of the Usilampatti Panchayat Union as requested in the notice given under Section 81(3) of the Tamil Nadu Panchayat Act, 1994, dated 14.01.2020, by the petitioner.

For Petitioner

:Mr.T.Ayngaraprabhu

For Respondent

: Mrs.J.Padmavathi Devi,
Spl. Government Advocate

O R D E R

The petitioner been elected as a member of ward no. 8 in Usilampatti Panchayat Union. He has therefore became a very important person. Claiming such status, he had demanded access to examine records/documents of the Usilampatti Panchayat Union. He claimed right under Section 81(3) of the Tamil Nadu Panchayats Act, 1994. He had given a representation on 14.01.2020, exercising such right. The petitioner must realise that rights go along with duties.

2. An inherent duty is caused upon every elected member to any post to behave courteously, to behave with dignity, and to maintain decorum in any public place and in public office and also in private inside the house. The petitioner however, appears to



have taken matters in hand and the learned Special Government Pleader has narrated an instance, where he had thrown away the chairs of the Panchayat Union and this had also been captured as a news item in a Tamil vernacular newspaper. The petitioner must also realise that throwing tantrums, will only attract the attention of the general public who draw attention to the same, more to expose the hypocrisy of the behaviour of elected members, than to adulate them. At any rate, the learned Special Government Pleader who had taken notice on behalf of the respondent/State stated that the documents which the petitioner had sought, can always be given to him, provided necessary permission is granted by the District Collector, Theni District, if permission is to be obtained by the respondent herein.

3. At this juncture, when the order is being dictated at Court, learned counsel interfered and stated that under Section 81 (3), the permission of the District Collector is not required. Section 81 of the Tamil Nadu Panchayats Act, 1994, relate to right of individual members.

"81. Rights of individual member.-

(1) Any member may call the attention of the Executive Authority or the Commissioner or the 1 [Secretary], as the case may be, to any neglect in the execution of Panchayat work, to any waste of Panchayat property or to the wants of any locality, and may suggest any improvement which may appear desirable.

(2) Every member shall have the right to move resolutions and to interpellate the President or Chairman on matters connected with the administration of the Panchayat, subject to such Rules as may be prescribed.

(3) Every member shall have access during office hours to the records of the Panchayat after giving due notice to the Executive Authority or Commissioner or the 1 [Secretary], provided that the Executive Authority or Commissioner or the 1 [Secretary] may, for reasons recorded in writing, forbid such access."

4. Section 81 sub-clause 3 states that every member shall have access during office hours to the records of the Panchayat, after giving due notice to the Executive Authority or Commissioner or Secretary provided that, the Executive Authority or Commissioner or Secretary may for reasons recorded in writing forbid such access. Therefore, a discretion is always vested with the respondent herein, either to grant access or to refuse access.

5. In the materials presented before this Court, there are no records showing that there has been refusal to grant access. I do



not agree with the contention of the learned counsel for the petitioner, that the right is exclusive and it goes with the post of the member of the Panchayat. The right is subject to limitations. The right is subject to proper conduct exhibited when seeking such respect. If the news paper item as exhibited by the Special Government Pleader has some credence, then it is clear that the petitioner had over reacted and damaged the very chairs, in which he has to sit during the meeting of the Panchayat Union. The respondent will have to follow the rules prescribed and the rule states that the particular document which the petitioner seeks, a permission has to be obtained from the District Collector. This Court cannot grant any mandamus to the petitioner.

6. Writ petition is dismissed. No Costs.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Pkn.

To

The Commissioner,
Usilampatti Union,
Usilampatti,
Madurai District.

W.P. (MD)No.5698 of 2020

Dated : 19.03.2020

SS/15.05.2020/3P-2C