



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)Nos.9931, 9932, 9933, 9935, 9937,

9939, 9941, 9944, 9945 & 10188 of 2020

and

W.M.P. (MD)Nos.8887, 8888, 8889,8890,8891,8892,

8893, 8894, 8895, 8896, 8897,8898,8899,8901,8904,

8905, 8907, 8908, 9060 & 9064 of 2020

WP(MD)No.9931 of 2020

Manikandam Panchayat Union Rep by its Chairman , K.Kamalam,
Manikandam Panchayat Union Office, Manikandam, Trichy District.

... Petitioner

- Vs. -

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer,
Manikandam Panchayat Union , Trichy District.

... Respondents

Prayer in WP(MD). 9931/ 2020 :

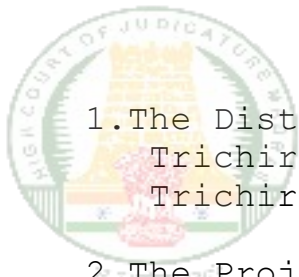
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

WP(MD)No.9932 of 2020

Musiri Panchayat Union Rep by its Chairman,R.Mala,
Musiri Panchayat Union Office, Musiri, Trichy District.

... Petitioner

vs



1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer,
Musiri Panchayat Union , Trichy District. ...Respondents

Prayer in WP(MD). 9932/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 04/08/2020 and quash the same.

WP(MD)No.9933 of 2020

Pullambadi Panchayat Union,Rep by its Chairman,Rashiya,
Pullambadi , Panchayat Union Office, Pullambadi , Trichy District.
... Petitioner

VS

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

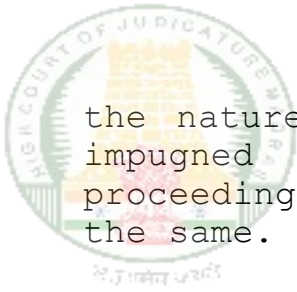
3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer
Pullambadi Panchayat Union , Trichy District

... Respondents

Prayer in WP(MD). 9933/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in



the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

WP(MD). 9935 of 2020 :

Thottiyam Panchayat Union Rep by its Chairman,M.Punitha Rani,
Thottiyam Panchayat Union Office, Thoottiyam , Trichy District.
... Petitioner

vs

- 1.The District Collector,
Trichirappalli District,
Trichirappalli.
- 2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.
- 3.The Assistant Director (Panchayat),
Trichirappalli District.
4. The Block Development Officer,
Thottiyam Panchayat Union , Trichy District

... Respondents

Prayer in WP(MD). 9935/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 04/08/2020 and quash the same.

WP(MD) . 9937/ 2020 :

Thuraiyur Panchayat Union Rep by its Chairman ,Saranya Mohandas,
Thuraiyur Panchayat Union Office, Thuraiyur , Trichy District.

... Petitioner

vs

- 1.The District Collector,
Trichirappalli District,
Trichirappalli.
- 2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.



3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer,
Thuraiyur Panchayat Union , Trichy District.

... Respondents

Prayer in WP(MD). 9937/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

WP (MD) . 9939/ 2020 :

Thathaiyangarpettai Panchayat Union, Rep by its Chairman ,
P.Sharmila Prabakaran, Thathaiyangarpettai Panchayat Union Office,
Thathaiyangarpettai, Trichy District.

... Petitioner

vs

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer,
Thathaiyangarpettai Panchayat Union , Trichy District

... Respondents

Prayer in WP(MD). 9939/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

<https://hcservices.ecourts.gov.in/hcservices/>



WP (MD) . 9941/ 2020 :

Lalgudi Panchayat Union Rep by its Chairman ,T.Ravichandran,
Lalgudi Panchayat Union Office, Lalgudi , Trichy District.

... Petitioner

vs

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer, Lalgudi Panchayat Union ,
Trichy District

... Respondents

Prayer in WP(MD). 9941/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

WP (MD) . 9944/ 2020 :

Uppiliyapuram Panchayat Union Rep by its Chairman,M.Hemalatha,
Uppiliyapuram Panchayat Union Office, Uppiliyapuram,
Trichy District

... Petitioner

vs

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.



4. The Block Development Officer, Uppiliyapuram Panchayat Union ,
Trichy District

... Respondents

Prayer in WP(MD). 9944/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 28/07/2020 and quash the same.

WP(MD) . 9945 of 2020 :

Andanallur Panchayat Union, Rep by its Chairman ,S.Duraiaraj,
Andanallur Panchayat Union Office, Andanallur , Trichy District

... Petitioner

VS

1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer,
Andanallur Panchayat Union , Trichy District

... Respondents

Prayer in WP(MD). 9945/ 2020 :

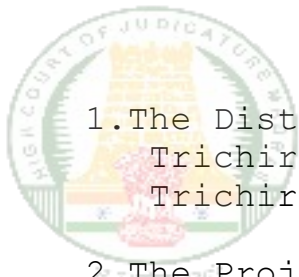
Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari or any other appropriate writ , order or direction in the nature of writ , to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 04/08/2020 and quash the same.

WP(MD) . 10188/ 2020 :

Manachanallur Panchayat Union, Rep by its Chairman
R.Sridhar, Manachanallur Panchayat Union Office,
Mannachanallur,Trichy Dist.

... Petitioner

VS



1.The District Collector,
Trichirappalli District,
Trichirappalli.

2.The Project Director (DRDA),
Trichirappalli District,
Trichirappalli.

3.The Assistant Director (Panchayat),
Trichirappalli District.

4. The Block Development Officer, Mannachanallur Panchayat Union
Trichy Dist

... Respondents

Prayer in WP(MD). 10188/ 2020 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a writ of certiorari or any other appropriate writ, order or direction in the nature of writ, to call for the records pertaining to the impugned order passed by the 1st respondent herein in his proceedings in Na.Ka.No.A1/2655/2020 dated 04.08.2020 and quash the same as illegal, and arbitrary

For Petitioner in all WPs : Mr.T.Senthil Kumar

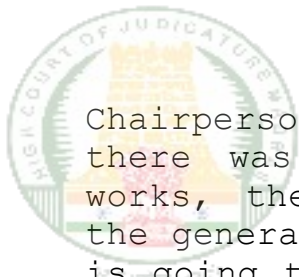
For Respondents (1 to 3) : Mr.S.Angappan
in all WPs Government Advocate

Fir Respondent 4 in all WPs : Ms.M.Rajeswari
Government Advocate

COMMON ORDER

Heard the learned counsel on either side.

2.As many as 10 Panchayat Unions in Trichy District have filed these writ petitions through their respective Chairpersons. By the impugned communications, the District Collector, in his capacity as the Chairperson of District Rural Development Agency had directed the respective Block Development Officers (Panchayat Union)/Commissioners to withdraw the amount mentioned in the respective communications from the respective Panchayat Union general funds. The impugned directives came to be issued because according to the District Collector, the local bodies have failed to make their contribution towards the Tamil Nadu Rural Roads Improvement Scheme (TNRIS) 2019-20. The BDOs were called upon to take demand drafts and credit the same in the DRDA account. The petitioners herein challenge the said communications primarily on the ground that the District Collector could not have directly sent the communications to the respective Commissioners. The



Chairpersons of the local bodies. It is also contended that when there was no special allocation for the aforesaid rural road works, the Authority cannot unilaterally direct withdrawal from the general fund of the Panchayat Unions. Since the entire nation is going through pandemic times, the fund of the Panchayat cannot be arbitrarily diverted. The petitioners also contend that the impugned communications issued by the District Collector are peremptory and lack details.

3.Per contra, the respondents have filed a detailed common counter affidavit. The respondents would point out that the Hon'ble Chief Minister of Tamil Nadu made an announcement under Rule 110 on the floor of the Assembly on 10.07.2019 that Tamil Nadu Rural Roads Improvement Scheme (TNRRIS) will be implemented for the year 2019-20 also with an annual outlay of Rs.1,200 Crores. Administrative sanction was accorded for the implementation of the Scheme vide G.O(Ms)No.153, Rural Development and Panchayat Raj (SGS.2) Department, dated 22.10.2019. The Director of Rural Development and Panchayat Raj was authorised to meet the expenditure and the manner of meeting the expenditure was also spelt out. It was specifically prescribed in the said G.O (Ms) No.153 dated 22.10.2019 that the Panchayat Union share of State Finance Commission (SFC) Population Grant 2019-20 will be Rs.600 Crores. Vide letter dated 24.10.2019, the Director of Rural Development and Panchayat Raj had clearly indicated that Rs.21 Crores will be the block wise tentative allocation for the scheme as far as Trichy District is concerned. The respondents point out that even before the assumption of office by the elected office bearers could take place, the entire tender process had been concluded. In order to fulfil the financial obligations that have been incurred, the District Collector had issued impugned communications.

4.The respondents firmly contend that withdrawal of the sums of money indicated in the impugned communications is well within the State Finance Commission grant. Since it is in consonance with G.O (Ms) No.153 dated 22.10.2019, no interference is called for in these writ petitions.

5.I carefully considered the rival contentions and went through the materials on record.

6.In order to satisfy myself that the sums directed to be withdrawn are within the SFC grant, I took the case of Andhanallur Union as a sample and directed the respondents to place the relevant materials. I am fully satisfied that during the relevant period, the Panchayat Unions received SFC grant and the amounts now sought to be withdrawn are well within the grants already

received.



7.The next question that arises is whether the instant writ petitions deserve to be dismissed since I have arrived at such a finding. The answer is a clear 'No'. This is for two reasons. Elections to the local bodies were held in December 2019 and the elected representatives have also assumed charge. Panchayat Union Councils are headed by Chairpersons. Section 52 of the Tamil Nadu Panchayat Act, 1994 sets out their functions. Section 52(2) is particularly relevant. It reads as follows:-

"52.Functions of the Chairman.- (1)...

(2).The Chairman shall have full access to all the records of the Panchayat Union Council and no official correspondence between the council and the Government shall be conducted except through the Chairman. The Chairman shall be bound to transmit communications addressed through him by the Commissioner to the Government or by the Government to the Commissioner."

The expression employed by the legislature is "shall". It clearly states that the official correspondence between the Council and the Government shall be conducted only through the Chairperson. Of-course, the Chairperson cannot retain the communication that may be received by him. If the communication is addressed to the Commissioner, the Chairperson has to necessarily transmit it to him.

8.The said provision came up for consideration in the decision reported in **2009 (6) CTC 787 (A.Tamil Selvan Vs. State of Tamil Nadu)**. It was held that Section 52(2) of the Act is mandatory and that the Commissioner cannot communicate with the Government without the intervention of the Chairperson. It was further observed that the creation of Panchayat Council was only on account of the mandate given by Article 243-B of the Constitution and that the object of the Act is to give greater participation to the people and for more effective implementation of rural development programmes. The chairperson occupies a pivotal position in the Panchayat Union. He is an elected member accountable to the Council and ultimately, to the village people. In view of the aforesaid authoritative ruling, the District Collector could not have disregarded the chairpersons. He had erred in communicating directly with the Commissioners/BDOs. On this sole ground, the impugned communications are liable to be quashed. They are accordingly quashed.

9.Though I have upheld the basic contention of the learned counsel appearing for the petitioners, I have to mould the consequential relief. In the cases on hand, the demand for withdrawal of certain sums of money from the Panchayat Union fund has been made only by virtue of G.O.Ms.No.153 dated 22.10.2019. The said G.O. has not been put to challenge. I have also recorded



a finding that the amounts sought to be withdrawn are well within the SFC grants. Therefore, no purpose will be served by directing the respondents to undo what has already been done. If no crediting in the account of DRDA had taken place on the date when these writ petitions were listed for admission before me, then, the District Collector will have to issue fresh communications to the Block Development Officers/Commissioners through the respective Chairpersons. In any event, the District Collector is obliged to furnish to the Chairpersons the following particulars:-

1.	Name of the Block	:	----- Panchayat Union
2.	Name of the Work	:	
3.	Name of the Contractor	:	
4.	Stream-I, II, III	:	
5.	Scheme	:	TNRRIS/
6.	Estimated Cost	:	
7.	Tender Date	:	
8.	Work Order Number & Date	:	
9.	Work started on	:	
10.	Work completed on	:	
11.	If work not completed, reason	:	
12.	Amount paid so far	:	
13.	Balance to be paid	:	
14.	Measurement Book No.	:	
15.	Voucher Number & Date	:	



10.The elected representatives of the local bodies are entitled to know the relevant particulars. The learned counsel for the petitioners states that in some cases, the roads have not even been laid. In some cases, the quality is very poor. Unless the details are furnished, it will not be possible to raise questions. Unless the aforesaid details are furnished, one can never know, if the funds were properly utilised or not. We are in the information age. The right to know is a fundamental right and has been read into Article 19(1)(a) of the Constitution. Since the Panchayat funds are being utilised, the elected representatives are definitely entitled to demand transparency and accountability. The District Collector is no doubt the Inspector of Panchayats. But he is no Sultan. The Chairpersons are definitely not his vassals. The District Collector states that the sums have to be taken out of panchayat funds and paid to the contractors. Though the District Collector is one of the controlling authorities, he cannot peremptorily deal with Panchayat funds. His orders will have to contain reasons. His directions must set out the purpose and the particulars.

11.It has been admitted by the respondents that for TNRRIS, no special fund was allotted. The Government had decided that it will earmark a portion of the grants that are annually given to the panchayats. The impugned communications are justified by invoking G.O (Ms) No.153 dated 22.10.2019. What this G.O does is to announce implementation of a road works scheme with a rider that the scheme will be funded substantially from out of the grant that is even otherwise given to the local bodies. I am afraid that the panchayats have been taken for a cool ride. The proposals have not emanated from the local bodies. It is this top down nature of the model that is little disturbing. But, the government order has not been questioned before me and it is not for me to go beyond this.

12.Article 40 of the Constitution of India mandates that the State shall take steps to organise village panchayats and endow them with such powers and authority as may be necessary to enable them to function as units of self-government. The Hon'ble Supreme Court in the decision reported in **(2012) 7 SCC 550 (Village Panchayat, Calangute Vs. The Additional Director of Panchayat - II and Ors)** observed as follows :

"21.The Preamble, Part IV and Part IX of the Constitution must guide our understanding of the Panchayati Raj institutions and the role they play in the lives of the people in rural parts of the country.



WEB COPY

The conceptualization of the Village Panchayat as a unit of self government having the responsibility to promote social justice and economic development and as a representative of the people within its jurisdiction must be borne in mind while interpreting the laws enacted by the State which seek to define the ambit and scope of the powers and the functions of Panchayats at various levels.

22. An analysis of Article 40 and Articles 243 to 243O shows that the framers of the Constitution had envisaged Village Panchayat to be the foundation of the country's political democracy a decentralized form of Government where each village was to be responsible for its own affairs. By enacting the Constitution (Seventy-third Amendment) Act, Parliament has attempted to remedy the defects and remove the deficiencies of the Panchayati Raj system evolved after independence, which failed to live up to the expectation of the people in rural India. The provisions contained in Part IX provide firm basis for self-governance by the people at the grass root through the institution of Panchayats at different levels. For achieving the objectives enshrined in Part IX of the Constitution, the State Legislatures have enacted laws and made provision for devolution of powers upon and assigned various functions listed in the Eleventh Schedule to the Panchayats. The primary focus of the subjects enumerated in the Eleventh Schedule is on social and economic development of the rural parts of the country by conferring upon the Panchayat the status of a constitutional body. Parliament has ensured that the Panchayats would no longer perform the role of simply executing the programs and policies evolved by the political executive of the State. By virtue of the provisions contained in Part IX, the Panchayats have been empowered to formulate and implement their own programs of economic development and social justice in tune with their status as the third tier of government which is mandated to represent the interests of the people living within its jurisdiction. The system of Panchayats envisaged in this Part aims at establishing strong and accountable systems of governance that will in turn ensure more equitable distribution of resources in a manner beneficial to all."

13. With these observations, the impugned orders stand quashed and the Writ petitions are partly allowed with the aforesaid

<https://hcservices.ecourts.gov.in/hcservices/>



directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CO)

WEB COPY

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

rmi

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The District Collector,
Trichirappalli District, Trichirappalli.
- 2.The Project Director (DRDA),
Trichirappalli District, Trichirappalli.
- 3.The Assistant Director (Panchayat),
Trichirappalli District.
- 4.The Block Development Officer,
Manikandam Panchayat Union , Trichy District.
- 5.The Block Development Officer,
Musiri Panchayat Union , Trichy District.
6. The Block Development Officer
Pullambadi Panchayat Union , Trichy District
- 7.The Block Development Officer,
Thottiyam Panchayat Union , Trichy District
- 8.The Block Development Officer,
Thuraiyur Panchayat Union , Trichy District.
- 9.The Block Development Officer,
Thathaiyangarpettai Panchayat Union , Trichy District
- 10.The Block Development Officer, Lalgudi Panchayat Union ,
Trichy District



11.The Block Development Officer,
Uppiliyapuram Panchayat Union, Trichy District.

12.The Block Development Officer,
Andanallur Panchayat Union , Trichy District

13.The Block Development Officer, Mannachanallur Panchayat Union
Trichy District.

W.P (MD) Nos. 9931, 9932, 9933,
9935, 9937,
9939, 9941, 9944, 9945 &
10188 of 2020
09.09.2020

KM (22.09.2020) 14P 14C