

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.07.2021

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR

W.P.No.13602 of 2021
& WMP No.14480 of 2021

M.Subramaniyan,
The President of Palayam
Village Panchayat,
Palayam Village Panchayat,
Nallampalli Taluk,
Dharmapuri District. ... Petitioner

Vs

1. The District Collector,
Dharmapuri,
Dharmapuri District.
- 2.The Assistant Director(Panchayat),
The Rural Development &
Panchayat Raj Department,
Dharmapuri,
Dharmapuri District.
- 3.The Block Development Officer,
Nallapalli,
Dharmapuri District.
- 4.The Vice-President of Palayam Village,
Panchayat,
Palayam Village Panchayat,
Nallampalli Taluk,
Dharmapuri District. ... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus directing the first respondent to consider the petitioner's representation dated 15.06.2021 with regard to take an action against the fourth respondent for the refusal of sign in the Panchayat resolution and cheques and also authorize the petitioner to sign in the cheques along with any other members of Palayam Village Panchayat.

For Petitioner : Mr.A.Ilayaperumal
For Respondents: Mr.M.R.Gokulkrishnan,
GA for RR1 & 2
Mr.G.Krishnaraj, for R3.

ORDER

This Writ Petition has been filed seeking a direction to the first respondent to consider the petitioner's representation dated 15.06.2021 for taking action against the fourth respondent for the refusal of sign in the Panchayat resolution and cheques and also authorize the petitioner to sign in the cheques along with any other members of Palayam Village Panchayat.

2. The petitioner is the President of Palayam Village Panchayat and the fourth respondent herein is the Vice President. According to the petitioner, for the last few months the fourth respondent used to refuse to sign in the resolutions passed by the Panchayat in relation to the Welfare schemes provided by the State and Central Governments. He also refused to sign in cheques for payment from the Village Panchayat Fund and other Funds and causing impediment to pay salaries to the Village Panchayata staffs and to meet day-today expenditure of administrative works. In such circumstances, the petitioner made representations dated 12.04.2021, 17.05.2021 and 15.06.2021 to the official respondents, seeking to take appropriate action against the fourth respondent. However, no action is forthcoming, the petitioner has come forward with the present Writ Petition.

3. Heard both sides.

4. The grievance of the petitioner is that the fourth respondent herein being the Vice President, willfully refuses to sign the resolutions passed by the Village Panchayat as well as cheques without any valid reasons and thereby violated the provisions of the Tamil Nadu Panchayats Act 1994. As per Section 188(3) of the Tamil Nadu Panchayats Act 1994, all the cheques for payment from Village Panchayat Fund shall be signed jointly by the President and the Vice President and in the absence of the President and the Vice President as the case may be, by the Vice President or the President and another member authorised by the Village Panchayat at a meeting on his behalf.

5. The scope of Section 188(3) of the Act came up for consideration before a Division Bench of this Court in W.A.No.1799 of 2004. By an order dated 28.1.2005, the Division Bench has held that if the Vice President (or President, as the case may be) by his conduct makes it impossible for the Village Panchayat to function (either by neglecting his duties or by causing regular obstruction in the administration or otherwise) he may be said to be "absent" and that such interpretation of the word "absence" in Section 188(3) would be taking a practical view, otherwise the Vice President (or President, as the case may be) if he has adversarial relationship with the Vice President (or President as the case may be) can make it very difficult for the Village Panchayat

to function by his simple act of refusing to sign cheques. Funds are often required for various purposes and if the President or Vice President refuses to sign cheques for ulterior motives, as is the allegation in the counter affidavit in this case, the functioning of the Village Panchayat may become impossible. The Division Bench has also held that Section 188(3) of the Act, as well as G.O.Ms.No.92 dated 26.03.1997 can be read harmoniously and that if the Vice President (or President, as the case may be) refuses to sign, resorting to action under Section 206 of the Act may require the compliance of the procedure mentioned in sub-sections (2) to (13) of Section 205 and the said procedure is a cumbersome, time consuming one, as for signing every cheque it would be impracticable to resort to that procedure. The Division Bench has further held in regard to the duty of the Inspector of Panchayats namely, the District Collector before granting prior approval to any resolution passed by the Panchayat in authorizing another member of the Village Panchayat to sign the cheque, in the place of the Vice President, along with the President as follows:-

"We would however point out that before granting prior approval it would be the duty of the Inspector of Panchayats (District Collector) to give a hearing to the Vice President or (President, as the case may be) (which need not be a personal hearing as already mentioned above), and apply his mind and decide by a written order giving reasons as to whether in his opinion, the Vice President (or President, as the case may be) is refusing to sign the cheque for ulterior motive, or for genuine reasons in the interest of the village panchayat. It will be the duty of the Inspector of Panchayats, to decide this matter objectively and impartially without being influenced by any extraneous pressures or considerations. If the refusal to sign the cheque is for good and genuine reasons in the interest of the Village Panchayat, the Inspector should refuse approval, but if it is for extraneous considerations or is mala fide he should grant it.

6. In view of the above, as seen from the records that the Writ Petitioner has not placed materials to show that the resolution has been passed authorizing the petitioner to sign the cheques. In the absence of such resolution, the Writ Petition cannot be entertained. However, if any resolution passed by the petitioner Panchayat, based on the resolution, the same shall be submitted before the first respondent for necessary permission authorizing the petitioner to sign the

cheques. If any such representation made by the petitioner within the reasonable time, the same shall be considered by the authority concerned at an earliest.

7. With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected WMP is closed.

s/d-
Assistant Registrar(CS V)

True Copy

Sub-Assistant Registrar

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To

1. The District Collector,
Dharmapuri,
Dharmapuri District.

2.The Assistant Director(Panchayat),
The Rural Development &
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4.The Vice-President of Palayam Village,
Panchayat,
Palayam Village Panchayat,
Nallampalli Taluk,
Dharmapuri District.

+ 1 cc to Mr. A. Ilayaperumal, Advocate Sr.30762
+ 1 cc to Government Pleader SR.31200

SR-II(CO)
EU 6.7.2021

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