IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.08.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.14932 of 2021
and W.M.P.Nos.15803 and 15804 of 2021

P.Vedanayagi
W/o Panchanathan
President, C.Mutlur Village Panchayat
No.482, Mariammal Koil Street, C.Mutlur Post
Mel Buvanagiri Panchayat Union, Bhuvanagiri
Division, Cuddalore District. …. Petitioner

-Vs-

1.The District Collector
Cuddalore District at Cuddalore.

2.The Block Development Officer
Parangipettai Panchayat Union
Cuddalore District.

3.The President
B.Mutlur Village Panchayat
Chidambaram Taluk, Parangipettai
Panchayat Union, Bhuvanagiri
Division, Cuddalore District. …. Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for records relating to the 1st respondent's order made in Na.Ka.No.A6/0346/2021 dated 25.02.2021 to quash the same and consequently direct the 1st respondent to forthwith restore the payments such as professional, service tax etc., to the petitioner Panchayat viz., C.Mutlur Village Panchayat.

For Petitioner : Mr.L.Chandrakumar
For Respondents : Mr.A.Selvendran, Government Advocate

O R D E R

The subject matter of challenge in the present writ petition is the proceedings of the second respondent dated 25.02.2021 and for a consequential direction to the first respondent to restore the payment of professional tax, service tax etc., to the petitioner Panchayat.

2. When the matter came up for admission on 20.07.2021, this Court had recorded the issue in dispute and the same is extracted hereunder.

> "3. The contention of the petitioner is that the petitioner is the President of C.Mutlur Panchayat of Mel Buvanagiri Panchayat Union, Bhuvanagiri Division, Cuddalore District and the professional tax for teaching and non teaching staff of the Thiruverkadu Karumariamman Government Arts College and the staffs of the Regional Transport Office was collected and deposited in the account of the C.Mutlur Panchayat. The further contention of the petitioner is that based on the representation made by the third respondent, the first respondent has passed the impugned order directing the administration of the C.Mutlur Panchayat not to collect the professional tax of the above said staffs and also directed the staffs to pay their professional tax in the account of the B.Mutlur Panchayat. According to the petitioner, only C.Mutlur Panchayat is doing and maintaining all the required amenities and other facilities, and hence, prayed to quash the impugned order."

3. Mr.L.Chandra Kumar, learned counsel for the petitioner submitted that the petitioner Panchayat was collecting the tax for a long time and all of a sudden the impugned order has been passed by the first respondent to the effect that the third respondent Panchayat is entitled to collect the tax. The learned counsel submitted that this order passed by the first respondent virtually deprives the income of the Panchayat and hence the said order should not have been passed without affording an opportunity to the petitioner. The learned counsel further submitted that only after receiving the impugned proceedings of the first respondent, the petitioner came to know that a representation was made by the Principal belonging to the Government Arts College and based on the same, an enquiry was conducted by the first respondent and during the enquiry, only the third respondent had participated and a report was also submitted by the Block Development Officer and the impugned proceedings came to be issued by the first respondent. Therefore, according to the petitioner, it is evident from the impugned order itself that no opportunity was afforded to the petitioner Panchayat before the impugned order was passed by the first respondent.

4. The second and third respondents have filed counter affidavits. The third respondent has explained in the counter affidavit as to how the lands that are comprised in S.Nos.129, 131/3, 132/1 and 135/3 are coming within the jurisdiction of the third respondent. It is further stated in the counter affidavit that the Arts College and the RTO Office are situated within these survey numbers and it is only the third respondent who is entitled to collect the tax. However, the petitioner Panchayat has been collecting the tax beyond its jurisdictional limits.

5. The second respondent has stated in the counter affidavit that the Village Panchayat can levy and collect house tax, tax on Profession, Trading, Calling and Employment only within the jurisdiction of the third respondent Village Panchayat. Learned counsel also relied upon the Settlement 'A' Register and the FMB Sketch and also Adangal issued by the Village Administrative Officer to substantiate his submissions that the lands in question fall within the jurisdiction of the third respondent and therefore, the first respondent had merely recognized the same and passed the order and there is absolutely no ground to interfere with the same.

6. This Court is not inclined to go into the merits of the claim made on either side. The primary grievance that was expressed by the learned counsel for the petitioner is that the impugned order passed by the first respondent virtually deprived the income of the Village Panchayat and therefore, before the order was passed, the petitioner ought to have been given an opportunity to establish their claim to collect the taxes. This is quite a curious case, where there is a dispute amongst two village Panchayats with regard to collection of taxes. The first respondent ought to have called the representative of both the Panchayats and conducted an enquiry and thereafter should have passed an order. The petitioner knew about the proceedings before the first respondent only after the Panchayat received the impugned proceedings of the first respondent. The proceedings of the first respondent also reflects the fact that the petitioner was never put on notice and what was considered was the representation made by the Principal of the Government Arts College, the representation on behalf of the third respondent Panchayat and the report submitted by the second respondent.

7. In a case of this nature, particularly when it involves two Panchayats, it is always better to enquire both the Village Panchayats before taking a decision. It is not a dispute between two individuals and it involves two Panchayats and the income earned by them through collection of taxes. The first respondent need not have passed the order without putting the

petitioner on notice.

8. In view of the above discussion, the impugned proceedings of the first respondent dated 25.02.2021 is liable to be interfered by this Court, mainly on the ground that it is in violation of principles of natural justice. Accordingly, the impugned proceedings of the first respondent is hereby quashed and the matter is remanded back to the file of the first respondent. The first respondent shall issue notice to the petitioner and the third respondent, give them an opportunity and conduct enquiry and thereafter pass fresh orders. This process shall be completed by the first respondent within a period of eight weeks from the date of receipt of a copy of this order.

9. In the result, this writ petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS-V)

//True Copy//

Sub Assistant Registrar

KST

To

1.The District Collector
Cuddalore District at Cuddalore.

2.The Block Development Officer
Parangipettai Panchayat Union
Cuddalore District.

3.The President
B.Mutlur Village Panchayat
Chidambaram Taluk, Parangipettai
Panchayat Union, Bhuvanagiri
Division, Cuddalore District.

+1cc to Mr.L.Chandrakumar, Advocate, S.R.No.39246
+1cc to the Government Pleader, S.R.No.39410

W.P.No.14932 of 2021

SSD(CO)
CB(23/08/2021)