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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.16906 of 2021 &
W.M.P. No. 17891 & 17892 of 2021

Mrs. S. Girija

.... Petitioner

-Vs-

1. The District Collector/
Inspector of Panchayat
Collectorate
Tiruvarur District
2. The Assistant Director of Panchayat
Tiruvarur
Tiruvarur District
3. The Block Development Officer
Panchayat Union
Tiruvarur
4. Mrs. Vijayalakshmi

5. Mr. K. Senthilkumar

....Respondents

Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of certiorarified mandamus or any another appropriate writ or order or direction calling for the records from the 1st respondent pertaining to the impugned order passed in Na Ka No.1650/2021/A2/Wo.E (Woo) dated 9.7.21 and to quash the same and consequently pass orders to direct the 1st respondent to renominate the petitioner as the joint signatory for signing the cheques, bills, etc. pertaining to the Koodur Panchayat Board, Tiruvarur District.

For Petitioner : K.M.Subrahmaniam

For Respondents : Mr. A.Selvendran. Government counsel
for R1 & R2
Mr. V. Manoharan, Government Advocate
for R3



O R D E R

This writ petition has been filed challenging the impugned proceedings of the first respondent dated 09.07.2021 and for a consequential direction to the first respondent to renominate the first respondent as the joint signatory for signing the cheques and other documents pertaining to the bench.

2. The case of the petitioner is that she is the elected Vice President of Koodur Panchayat Board in Tiruvarur district. The petitioner is the authorized joint signatory for signing the cheques and other documents. The petitioner seems to have made certain representations against the president of the Panchayat and her husband to the effect that they are indulging in corrupt practices. While so, the impugned order came to be passed by the first respondent dis-entitling the petitioner to sign the cheques and other documents pertaining to the panchayat. Aggrieved by the same, the present writ petition has been filed before this Court.

3. When the matter was taken up for admission on 12.08.2021, this Court passed the following interim order:-
Mr.A.Selvendran, learned Government Advocate takes notice for the respondents 1 and 2. Mr.V.Nanmaran takes notice for the third respondent. Notice to the respondents 4 and 5 returnable by 02.09.2021. Private notice is also permitted.

2. A reading of the impugned proceedings of the first respondent dated 09.07.2021 shows that the order was passed without affording an opportunity to the petitioner. The issue involved in the present case is covered by the earlier judgment of this Court in "Pugazhendran -Vs- B.G.Balu and another" reported in 2005 (1) CTC 545, wherein the Division Bench of this Court had categorically held that there must be a harmonious construction of Section 188(3) of the Tamil Nadu Panchayats Act, 1994 and G.O.Ms.No.92 dated 26.03.1997 and therefore, an order can be passed by the District Collector only after affording an opportunity to the office bearer.

3. A prima facie case has been made out. There shall be an order of interim stay of the operation of the impugned order passed in Na.Ka.No.1650/2021/A2/Wo.E (Woo) dated 09.07.2021. Post this writ petition under the caption "For Orders" on 02.09.2021.

4. When the matter was taken up for hearing today, the



learned counsel appearing on behalf of the 3rd respondent submitted the counter affidavit filed on behalf of the 3rd respondent. Even though the entire counter affidavit deals with the merits of the case, it is clear from the counter affidavit that the impugned order has been passed by the first respondent without affording an opportunity to the petitioner. Therefore, the reasoning given by this Court while passing the interim order will hold good and the impugned order passed by the first respondent is liable to be interfered on that ground alone.

5. In view of the above discussion, the impugned proceedings of the first respondent dated 09.07.2021 is hereby quashed. The first respondent is directed to issue a fresh notice to the petitioner calling for an explanation and thereafter, deal with the same in line with the Division Bench judgment of this Court in [Pugazhendran -Vs- B.G.Balu and another] in 2005(1) CTC 545, after affording the opportunity to the petitioner. Till a final order is passed by the first respondent, the petitioner will be entitled to effectively function as the Vice President of the Panchayat with all signing powers.

6. This writ petition is allowed with the above directions. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

sha/rka

To

1. The District Collector/
Inspector of Panchayat
Collectorate
Tiruvarur District
2. The Assistant Director of Panchayat
Tiruvarur
Tiruvarur District



3. The Block Development Officer
Panchayat Union
Tiruvarur

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+1cc to Mr. V. Manoharan, Advocate, S.R.No.45321

+1cc to the Government Pleader, S.R.No.45528

W.P.No.16906 of 2021
& WMP No.17891 & 17892 of 2021

SJ(CO)
CT/29/09/2021