

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.02.2021

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.No. 15386 of 2020

and

W.M.P.Nos. 19244 & 19245 of 2020

Latha @ Kamatchi Ayyavu

...Petitioner

Vs.

1.The Inspector of Panchayat / District Collector,
Tiruppur District, Tiruppur.

2.The Assistant Director of Panchayats (V.P)
Collectorate Campus, Tiruppur.

3.The Block Development Officer (V.P)
Udumalpet Panchayat Union,
Tiruppur District.

4.G.Jayaprakas

5.S.Gangadevi

6.S.Divya

7.V.Soundararajan

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India seeking issuance of writ of certiorarified mandamus, calling for the records of the 1st respondent in proceedings Na.Ka.No.2121/2020/A1 dated Nil.09.2020 signed on 03/09/2020 and proceedings in Na.Ka.No:2121/2020/A1, dated Nil.10.2020, signed on 12.10.2020 and quash the both impugned orders as illegal, improper and unconstitutional, consequently direct the 1st respondent to forthwith allow the petitioner to sign all cheques of Kanakkampalayam Village Panchayat as President.

For Petitioner : Mr.R.Venkataraman,
Senior Counsel for
Mr.S.Balamurugan

For Respondents : Mr.M.Elumalai, AGP for R1 & R2
Mr.S.Thangavel for R3
Special Government Pleader

O R D E R

This writ petition is filed as against the show cause notice issued by the 1st respondent / District Collector dated 03.09.2020 on the enquiry contemplated under Section 205 of the Panchayat Act and the subsequent order passed by the District Collector under Section 203 of the Panchayat Act, taking away the cheque signing power of the petitioner, President of the Panchayat.

2. Mr.R.Venkataraman, learned Senior Counsel appearing for the petitioner submits that the proceedings under Section 205 can be initiated either suo moto or on the resolution of the 2/3rd of the members of the Panchayat, whereas, the actions have been contemplated based on the complaint of two individuals.

3. Mr.M.Purusothaman, learned counsel for the impleading respondents and Mr.Vijay Arun, learned counsel for the impleading petitioners submit that there is a large scale of irregularity committed in the Village Panchayat and therefore, committee was constituted to look into the allegations made in the complaint and the Assistant Director has also sent his Special Audit Report to the District Collector and as per the report, there are certain irregularities to an extent of Rs.33,00,000/-.

4. Mr.M.Elumalai, learned Additional Government Pleader for the official respondents would submit that the proceedings under Section 205 is at the stage of conclusion and they have not proceeded pursuant to the writ petition. The order under section 205 has been passed on basis of the report of the Assistant Director.

5. This Court paid its anxious considerations to the submissions made by both the learned counsels and also perused the material available on records.

6. A perusal of order in Na.Ka.2121/2020/A1 dated 14.10.2020 shows that the same has been passed by the District Collector by invoking the powers under Section 203 pending enquiry contemplated under Section 205(1) of the Panchayat Act. In the impugned order, the District Collector has relied upon the Special Audit Report submitted by the Assistant Director and has also taken into consideration of the administration of the Panchayat in the pandemic period.

7. The District Collector / Inspector of Panchayat is the competent authority under the Panchayat Act to initiate any action under Section 205 of the Panchayat Act. In this case, the District Collector / Inspector of Panchayat has initiated action

by issuing show cause notice based on the special audit report submitted by the Assistant Director of Panchayat. Therefore, the show cause notice is issued in accordance with law by the competent authority. Pending the enquiry, for the smooth functioning of the panchayat, the District Collector has also taken the cheque signing powers of the petitioner, however, pursuant to the interim orders passed by this Court, the said powers have been restored with the petitioner.

8. The Hon'ble Apex Court in *Union of India and another v. Kunisetty Sathyanarayana*, reported in 2007 (2) SCC (L&S) 304, has held that the Courts are supposed to interfere with a show cause notice or a charge memo only on certain limited grounds, such as jurisdiction issue or if the orders are passed with mala fide intention. For better appreciation, the observation made by the Hon'ble Apex Court in the said decision is extracted as under:

"14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of anyone. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance."

9. In this case, the District Collector is the Competent Authority to issue the impugned show cause notice and therefore, there is no issue with regard to the jurisdiction. That apart, the petitioner has not levelled any allegations or averments as against the District Collector that the order came to be issued with mala fide intentions. Therefore, this Court is not inclined to interfere with the impugned show cause notice. Since the impugned order is a show cause notice, the petitioner is entitled to offer her reply, if any. Therefore, the petitioner is directed to submit her reply to the show cause notice within a period of two weeks from the date of receipt of a copy of this order. The District Collector is directed to proceed with the enquiry and to take a decision thereon, after affording an opportunity to the petitioner. The needful in this regard will

have to be done within a period of eight weeks from the date of receipt of a copy of this order. Till such time, the cheque signing powers of the petitioner need not be disturbed.

10. With the above observations and directions, this writ petition is disposed of. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

kkn

To:

- 1.The Inspector of Panchayat / District Collector,
Tiruppur District, Tiruppur.
- 2.The Assistant Director of Panchayats (V.P)
Collectorate Campus, Tiruppur.
- 3.The Block Development Officer (V.P)
Udumalpet Panchayat Union,
Tiruppur District.

+1cc to Mr.S.Balamurugan, Advocate, S.R.No. 9849
+1cc to Mr.M.Devaraj, Advocate, S.R.No. 9842
+1cc to Mr.D.R.Arunkumar, Advocate, S.R.No. 10068
+1cc to Mr.S.Thangavel, Advocate, S.R.No. 10085

W.P.No. 15386 of 2020
and
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GSM(CO)
GN(07/06/2021)

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