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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2021

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

Writ Petition No.22839 of 2021
and
W.M.P.Nos.24060 and 25882 of 2021

Selvarani

...Petitioner

-Vs-

1. The District Collector
cum Inspector of Panchayats
Office of the Collectorate
Perambalur - 621 212.
2. The Block Development Officer
Panchayat Union, Veppur.
3. The President, Panchayat Union
Pennakonam, Perambalur.
4. Rani

...Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records of the file of the 1st respondent in proceedings Sa.Mu.No.1341/2021/A3 dated 27.09.2021 and quash the same as illegal, incompetent and without jurisdiction and for consequential orders.

For Petitioner : Mr.Sai Krishana for
Mr.V.Raghavachari

For Respondents : Mr.A.V.Arun,
Additional Advocate General
Assisted by Mr.A.Selvendran,
Special Government Pleader - for R1
Mrs.V.Yamuna Devi, Special
Govt.Pleader-for R2
Mr.T.Arunkumar,
Additional Government Pleader -
for R3



O R D E R

The prayer sought for herein is for a Writ of Certiorari to call for the records of the file of the 1st respondent in proceedings Sa.Mu.No.1341/2021/A3 dated 27.09.2021 and quash the same as illegal, incompetent and without jurisdiction and for consequential orders.

2. That the petitioner was serving as Vice President of the Village Panchayat, called Pennakonam Village Panchayat, Perambalur District. As per the procedure which is in vogue, the President as well as the Vice President of the Village Panchayat have to jointly sign all the cheques for drawal of amounts from the account of the Panchayat. In this regard, there was a complaint against the petitioner that, the petitioner did not cooperate with the President by signing as the second signing authority for the purpose of drawal of money even to pay salary to the sanitary workers of the Panchayat.

3. Therefore, as per the procedure contemplated under G.O.Ms.No.92, Rural Development Department dated 26.03.1997, proceedings were initiated where the Panchayat had a meeting to pass a resolution to that effect on 21.06.2021, where, according to the respondents there was a resolution passed against the petitioner to remove her from the post of Vice President by giving power to any one of the members to act as the second signing authority. That resolution, according to the respondents, was passed by a majority of 5:4. Pursuant to the said resolution passed, the same was placed before the Block Development Officer concerned, who, on consideration of the same, had endorsed the said resolution and forwarded to the first respondent District Collector, who is also the Inspector of Panchayats, for his consideration and approval, as contemplated under the Government Order referred to above.

4. The first respondent District Collector, having considered the said development, including the resolution passed by the Panchayat dated 21.06.2021, had accepted the same and thereby directed that, the fourth respondent who is the member of the second ward in the said Panchayat to act as the second signing authority of the instruments along with the President by an order dated 22.09.2021. Aggrieved by the order passed by the first respondent District Collector / Inspector of Panchayats, challenging the same present writ petition has been filed with the aforesaid prayer.

5. Mr.V.Raghavachari, learned counsel for the petitioner would submit that, on the date of the meeting ie., on 21.06.2021, even though the petitioner visited the Panchayat to attend the meeting, she was specifically prevented by the police



who have been brought there and till the meeting was over, the gates which were closed were not open for the entry of the petitioner and only after the meeting was over, the gates were opened, thereby there was no chance for the petitioner to attend the meeting and to convince the other members not to vote in favour of the resolution brought in this regard.

6. In this regard, when a communication has been received on 25.08.2021 from the respondents to give the reply or defence of the petitioner, the petitioner has given a detailed reply stating all these reasons and at no point of time, the petitioner had done any act which tends to be non-cooperative with the President of the Village Panchayat in signing the documents or for undertaking any work.

7. Merely because of the animosity that the President of the Village Panchayat has developed, the petitioner has been sidelined and in order to oust the petitioner from the position of second signing authority in the instrument concerned and to bring a relative of the third respondent in the Village Panchayat, they made this design to bring this resolution, that too in the absence of the petitioner and they claimed to have passed a resolution, thereby the evil design of the third respondent ie., the President of Village Panchayat has now been approved by the first respondent District collector / Inspector of Panchayats. Theefore, the impugned order is unlawful and untenable and not in consonance with the provisions of the Act as well as the import of G.O.Ms.No.92 referred to above. Therefore, the learned counsel for the petitioner seeks the indulgence of this Court.

8. Per contra, the learned Additional Advocate General appearing for the first respondent, relied upon the relevant portion of the Government Order, where the procedure to be adopted in such circumstances has been clearly spelt out. The relevant portion of the Government Order reads thus,

“20. Accounts and Audit

These Accounts may be permitted to be opened in a branch of any co-operative Bank, any branch of Regional Rural Banks, Post Office Savings Banks, Nationalized Bank, in the above order or priority, depending upon the convenience of the Village Panchayat, either in the same village or in the nearby village. There should be a separate cash book for each of these 3 accounts. Monthly reconciliation of the closing balance as per these 3 cash books as per the 3 bank pass books should be done systematically by the President.



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All the accounts should be jointly operated by the President and the Vice President. In exceptional cases, where there is adversarial relationship between the President and the Vice President, the Panchayat may, by a resolution, authorise any other member other than the Vice President to jointly operate the account along with the President. Provided that prior approval of the Inspector of Panchayats (District Collector) will be obtained for this."

9. In the said procedure as contemplated under the Government Order, since it has been stated that, where there is adversarial relationship between the President and the Vice President of the Panchayat, that Panchayat may, by a resolution, authorise any other member other than the Vice President, to jointly operate the Account along with the President provided that, the approval of the Inspector of Panchayats ie., the District Collector has to be obtained.

10. Relying upon this procedure, the learned Additional Advocate General would contend that, insofar as the relationship between the third respondent and the petitioner is concerned, it is strained. Therefore, there is adversarial relationship between them. In that circumstances, the only option open for the Panchayat to resolve the issue is to refer the matter to the Panchayat for a resolution in this regard and accordingly in the presence of the officials concerned nominated in this regard, on 21.06.2021, there was a meeting conducted, where, all the members were invited to participate including the petitioner to discuss and decide the said resolution.

11. In that meeting, according to the learned Additional Advocate General, as per the documents relied upon by him, where a copy of the resolution passed by the Panchayat has been annexed, members participated and voted in favour of the resolution were five, and the remaining four members, either not participated, not signed or not supported the resolution. Therefore, the resolution was passed on the basis of 5:4 majority. Therefore, the copy of the resolution was forwarded to the District Collector / Inspector of Panchayats, who, on considering the same, after giving an opportunity to the petitioner to put forth her case, by giving a notice on 25.08.2021, and after having gone through the reply / representation in this regard by the petitioner, including the complaint given by her that, she was not permitted to participate in the meeting, has come to the conclusion that, the resolution passed by majority in this regard dated 21.06.2021, has to be accepted, as that was passed on the basis of the procedure contemplated under G.O.Ms.No.92 referred to above and



therefore, the second ward member ie., the fourth respondent was permitted to act as second signing authority in operating the account of the Panchayat along with President of the Village Panchayat by his order dated 22.09.2021, which is impugned herein. Therefore, in passing such resolution by referring the matter to the Panchayat and accepting the said resolution of the Inspector of Panchayats, which culminated in the impugned order, were all taken place as per the procedure contemplated under the Government Order in G.O.Ms.No.92. Therefore, the impugned order is sustainable and tenable and the same does not require any interference from this Court. Hence, the learned Additional Advocate General seeks the indulgence of this Court to reject this writ petition.

12. I have considered the rival submissions made by the learned counsel appearing on either side and have perused the materials placed on record.

13. Insofar as the situation that was confronted by the Village Panchayat herein and whether such a situation can be resolved in a particular procedure is concerned, we can take the aid of the import of G.O.Ms.No.92 dated 23.06.1993 of the Urban Development Department, where, inter alia the Government Order had stated under the heading "Accounts and Audit" and the relevant portion has already been extracted herein above.

14. In the said procedure, the language used by the Government Order only states about the adversarial relationship between the Panchayat President and Vice President. The reason or root cause of such adversarial relationship may be different or varied reasons may be there, depending upon the working relationship between the two. But, the fact remains that, if there was an adversarial relationship, which is not healthy to conduct and transact the business of the Village Panchayat, especially in transacting the business that relates to accounts, especially operating the account of the Village Panchayat by drawal of money for the purpose of various works to be undertaken in the Village Panchayat to the welfare of the people and also to pay salary to the staff and menial servants and workers attached with the Panchayat, the Government had thought it fit to issue this Government Order to refer the matter to the Panchayat for a resolution and if any resolution is passed, where the Panchayat may authorise any member other than the Vice President to jointly operate the account along with the President, that can be accepted, of course by providing an opportunity to the Vice President whose power as the second signing authority is to be taken away by virtue of such resolution and after accepting the same, orders have to be passed by the District Collector being the Inspector of Village Panchayats.



15. This procedure alone has been contemplated under the Government Order referred to above and according to the said procedure, in the present case, in view of the alleged adversarial relationship between the President and the Vice President of the Village Panchayat ie., the third respondent and the petitioner, the issue had been referred to the Village Panchayat for its decision. Accordingly, on 21.06.2021 a resolution had been passed, where the resolution was approved with the majority of 5:4.

16. In this context, it is to be taken note of that, the Panchayat is having one elected President and eight members, and the petitioner has become the Vice President. Assuming that the President had been preventing her from attending the meeting as claimed by the petitioner, though this was stoutly denied by the respondents, even if the petitioner attended the meeting and signed or passed the resolution, the majority view would not have been changed as presently the resolution has been passed with 5:4 majority.

17. In that case, no material alterations would have been possible by the appearance of the petitioner, assuming that the case of the petitioner is accepted that she has been prevented by the respondents from attending the meeting.

18. Be that as it may. Now, as contemplated under G.O.Ms.No.92, in view of the adversarial relationship between these two, ie., the President and the Vice President of the Panchayat, the issue was referred to the Village Panchayat for deliberation and decision, and accordingly on 21.06.2021 a resolution has been passed with a majority of 5:4 and based on that resolution, after giving an opportunity to the petitioner to put forth her case, the first respondent District Collector, in the capacity as Inspector of Panchayats, has accepted the said resolution passed by the Village Panchayat, in the interest of the smooth functioning of the Village Panchayat, and accordingly the impugned order has been passed, whereby the second ward member ie., the fourth respondent has been entrusted with the second signing authority. Therefore, the said procedure adopted culminating in the impugned order passed by the first respondent, on perusal of the records available before this Court, in the considered opinion of this Court, is not infirm or tainted with any other reasons, which requires interference from this Court.

19. In that view of the matter, this Court has no hesitation to hold that, the impugned order since has been issued after adopting the procedure which should have been adopted as per the procedure contemplated under G.O.Ms.No.92, has to be sustained



and accordingly it is sustained. Hence, the challenge made against the impugned order fails and the writ petition is liable to be rejected.

20. In result, the writ petition is dismissed. No costs. The order of interim stay granted by this Court in W.M.P.No.24060 of 2021 is hereby vacated and the said petition is dismissed. The vacate stay petition in W.M.P.No.25882 of 2021 is allowed.

Sd/-
Assistant Registrar(CCC)

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Sub Assistant Registrar

KST

To

1. The District Collector
cum Inspector of Panchayats
Office of the Collectorate
Perambalur - 621 212.
2. The Block Development Officer
Panchayat Union, Veppur.
3. The President, Panchayat Union
Pennakonam, Perambalur.

+1cc to Mr.V.Raghavachari, Advocate, S.R.No.66173
+1cc to Mr.T.Arunkumar, Advocate, S.R.No.66203
+1cc to the Government Pleader, S.R.No.66580

W.P.No.22839 of 2021

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NSK 16/02/2022