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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P.No.22905 of 2021
and W.M.P.Nos.24106 & 24107 of 2021
(Through Video Conference)

P.Jhansi Rani

.. Petitioner

Versus

1) The District Collector,
Collectorate, Thiruvallur District,
Master Plan Complex, NH 205,
Chennai - Tiruttani Highway,
Thiruvallur, Tamil Nadu 602 001

2) The Revenue Divisional Officer,
Tiruttani Division,
Kasinathapuram, Thiruttani,
Tamil Nadu 631 209

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorari calling for the records of the impugned notice in Na.Ka.2994/2021/A1 dated 12.10.2021 issued by the 2nd respondent to the petitioner and quash the same.

For Petitioner : Mr.Sathish Parasaram,
Senior Counsel
Mr.Naveen Kumar Murthi

For Respondents : Mr.A.Selvendran,
Government Advocate.

O R D E R

The background of this case is captured in the earlier order passed by this Court dated 27.10.2021 and the same is extracted hereunder:

"(1) When the matter came up for admission on 25.10.2021, this Court passed the following



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order:-

'Mr.A.Selvendran, learned Government Advocate, takes notice for the respondents 1 and 2.

2.The subject matter of challenge in the present writ petition pertains to the impugned proceedings of the 2nd respondent dated 12.10.2021 calling for a Meeting to remove the petitioner from the post of Chairman.

3. The total sanctioned strength of the Pallapatti Panchayat Union is 12. Out of the same, one member, who was holding the position of Vice Chairman died in the year 2019. Admittedly, this position has not been filled up till date. Therefore, the sanctioned strength of the Panchayat Union is not available. The impugned notice has been issued by the 2nd respondent on the basis of the no confidence that has been raised by nine members belonging to the Panchayat Union. The main ground that has been taken by the petitioner is that Section 212 of the Tamil Nadu Panchayats Act, 1994, consciously uses the word 'sanctioned strength' which would mean the total strength of the Panchayat Union. Section 212[13] specifically provides that the motion must be carried with the support of not less than 4/5th of the sanctioned strength of the Panchayat Union. If this provision is interpreted based on its plain meaning, it would mean that the motion must have the support of atleast 10 members, since the sanctioned strength is 12. If that is not present, Section 212[14] will kick in and the Meeting cannot be held for want of quorum. The matter involves serious consideration of the interpretation to be given to the word 'sanctioned strength'. Hence, a prima facie case has been made out.

4. 4.The learned Government counsel submitted that he will take instructions in this regard and report before this Court. Post this case immediately after admission on 27.10.2021.

2) When the matter was taken up for hearing today, the learned Government Advocate circulated the written instructions received from the Revenue Divisional Officer, Tiruttani. The



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learned Government Advocate specifically placed reliance upon the last paragraph of the written instructions wherein it has been stated that if the requirements under Section 212[13] of the Tamil Nadu Panchayats Act, 1994, is not fulfilled, the motion will not be carried through due to the law stipulated under Section 212[14] of the Act.

3) The Learned Government Advocate brought to the notice of this Court Section 212[2] of the Act and submitted that for the purpose of moving the motion, it is enough if 3/5th of the sanctioned strength is fulfilled. In the present case, the sanctioned strength is 12 and out of the same, 9 members have given the notice for moving the no confidence motion. Therefore, according to the learned Government Advocate, Section 212[2] of the Act has been complied with. Pursuant to the notice issued by the members, a Meeting has been called for and if in the said Meeting, the requirements under Section 212[13] and 212[14] of the Act are not fulfilled, obviously, the motion will not be carried through.

4) The learned Government Advocate submitted that a clear picture will emerge only if the Meeting is held and there cannot be a bar in conducting the Meeting tomorrow [28.10.2021].

5) This Court has carefully considered the submissions made by the learned Government Advocate and the written instructions submitted by the Revenue Divisional Officer, Tiruttani.

6) It is clear that the Meeting is called for based on the notice given by 9 members who are bringing the no confidence motion against the petitioner herein. For the purpose of convening the Meeting, this strength is enough and it satisfies the requirements under Section 212[2] of the Act.

7) As to whether the motion will be carried through during the Meeting will depend



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upon the fulfillment of the mandatory requirements under Section 212[13] and 212[14] of the Act. A clear picture will emerge only if the Meeting is convened. The Revenue Divisional Officer, Tiruttani, has categorically stated in the written instructions that if the requirements under Section 212[13] of the Act is not fulfilled, the motion cannot be carried through.

8) In view of the above, this Court does not find any ground to restrain the Meeting from being held tomorrow [28.10.2021]. However, it is made clear that the provisions under Sections 212[13] and 212[14] of the Act shall be strictly followed and if it does not fulfill those requirements, the motion cannot be carried through.

9) Post the writ petition immediately after the admission list on 02.11.2021."

2. When the matter was taken up for hearing today, it was reported by the learned Senior Counsel appearing on behalf of the petitioner that there was no sufficient quorum for conducting the meeting since there were only nine members who had moved the motion. In view of the same, the mandatory requirement under Section 212(13) of the Tamil Nadu Panchayats Act, 1994 was not fulfilled.

3. The learned Government Advocate appearing on behalf of the respondents submitted the communication dated 28.10.2021 issued by the Revenue Divisional Officer, Tiruthani to the Principal Secretary, Rural Development and Panchayat Raj. It is seen from the communication that only nine members were present during the meeting and they were the ones who had moved the motion of 'No-confidence' against the petitioner. It is also seen from the said communication that the post of Vice-Chairman continues to be vacant till today and it has not been filled up.

4. In view of the above, the 'no-confidence motion' that was moved against the petitioner abates / gets nullified since it does not satisfy the requirements under sections 212(13) and 212(14) of the Tamil Nadu Panchayats Act, 1994 and as a result of the same, the notice issued for moving the 'No-confidence motion' against the petitioner stands cancelled.



5. Recording the same, this Writ Petition is closed. No costs. Consequently, connected miscellaneous petitions are closed. It is left open to the Principal Secretary, Rural Development and Panchayat Raj to act upon the communication sent by the Revenue Divisional Officer dated 28.10.2021 and proceed further in accordance with law.

Sd/-

Assistant Registrar(CS-II)

// True Copy //

Sub Assistant Registrar

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To:

1) The District Collector,
Collectorate, Thiruvallur District,
Master Plan Complex, NH 205,
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Thiruvallur, Tamil Nadu 602 001

2) The Revenue Divisional Officer,
Tiruttani Division,
Kasinathapuram, Thiruttani,
Tamil Nadu 631 209

+lcc to the Government Pleader, SR.No.57610

W.P.No.22905 of 2021

KG(CO)
CB(30/11/2021)