



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.12.2021

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD)No.7404 of 2020
& WMP (MD)No.6857 of 2020

P.Tamil Selvan

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
rep. by the Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai-9
- 2.The Director of Rural Development and Panchayat Raj,
Directorate of Rural Development and Panchayat Raj,
Panagal Building, Chennai-600 015.
- 3.The District Collector,
Trichy District, Trichy.
- 4.The Personal Assistant to District Collector(Development),
O/o.The Collector Office Campus,
Trichy District, Trichy.
- 5.The Block Development Officer(Village Panchayat),
O/o.Block Development Officer,
Manachanallur Panchayat Union,
Trichy District.
- 6.The President,
Varakuppai Panchayat,
Pullambadi Panchayat Union,
Trichy District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in his proceedings Se.Mu.No.Tha.1/3310/2020 dated 17.06.2020(Served to the petitioner on 29.06.2020) and quash the same as illegal and consequentially to direct the respondent to reinstate the petitioner in service within the period as stipulated by this Court.



For Petitioner : Mr.H.Mohammad Imran
for M/s.Ajmal Associates.
For Respondents : Mr.J.Ashok, Additional Government Pleader

ORDER

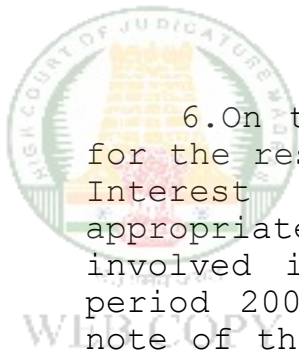
Heard Mr.H.Mohammad Imran, learned counsel for M/s.Ajmal Associates, appearing for the petitioner and Mr.J.Ashok, learned Additional Government Pleader appearing for the respondents.

2.This Writ Petition has been filed seeking for issuance of a Certiorarified Mandamus, to call for the records relating to the impugned order passed by the third respondent in his proceedings Se.Mu.No.Tha.1/3310/2020 dated 17.06.2020(Served to the petitioner on 29.06.2020) and quash the same as illegal and consequentially to direct the respondent to reinstate the petitioner in service within the period as stipulated by this Court.

3.By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4.According to the petitioner, while he was working as Panchayat Secretary in the year 2016, he was placed under suspension by the fourth respondent vide proceedings dated 09.08.2016 for certain allegations and also consequently, he was issued with a charge memo, for which, the petitioner also submitted his explanation on 30.09.2016. Since, the respondents have not concluded the disciplinary proceedings, the petitioner approached this Court in WP(MD)No.5712 of 2017, wherein, this Court directed the second respondent to complete the enquiry within a period of ten weeks. Even then, the respondents have not completed the enquiry proceedings and continued the petitioner under suspension. Therefore, the petitioner once again approached this Court in WP(MD) No.2735 of 2020 challenging the suspension order passed by the fourth respondent, which came to be allowed and consequently, the suspension order was quashed. Later, the petitioner was also reinstated in service by proceedings dated 28.05.2020. While so, the grievance of the petitioner is that once again the third respondent, vide proceedings dated 17.06.2020, impugned in the Writ Petition, placed the petitioner under suspension on the ground that there were discrepancies in remitting the tax amount of the Panchayat. Challenging the same, the petitioner has come forward with the present writ petition.

5.The learned counsel for the petitioner submits that when the suspension order passed on the same allegations, which was already quashed by this Court, the third respondent is not justified in passing the present impugned suspension order on the very same allegations and therefore, the same is liable to be set aside.



6. On the other hand, the learned Additional Government Pleader for the respondent submits that some of the villagers filed a Public Interest Litigation in WP(MD) No.24620 of 2016 for taking appropriate action against the petitioner and his allies who involved in large scale embezzlement of Panchayat funds for the period 2006-2016 and a Division Bench of this Court after taking note of the fact that a criminal case was registered in this regard in Crime No.299 of 2016, directed the respondents therein to take action against the petitioner and others by initiating disciplinary proceedings. Pursuant to the same, the petitioner was proceeded with the present disciplinary proceedings and by impugned proceedings dated 17.06.2020, the third respondent placed the petitioner under suspension. He also pointed out that in fact already an enquiry was conducted in this regard by the then Personal Assistant to the Collector for the period 2006-2007 to 2014-2017 and submitted his detailed report dated 29.08.2017 and ascertained that there was mis-appropriation of Panchayat funds to the tune of Rs.10,53,776/- and based on this, the third respondent also issued a show cause notice dated 25.09.2017, seeking explanation from the petitioner. But, no explanation was submitted by the petitioner. However, these proceedings were kept in abeyance since already the petitioner was placed under suspension for the charge pertaining to the period 2015-2016 and was also facing a criminal case. The suspension order which was already quashed by this Court in earlier WP(MD)No.2735 of 2020 was pertaining to the charge for the period 2015-2016 whereas, the present impugned suspension order pertains to the charge for 2006-2007 to 2014-2015 that too pursuant to the directions of a Division Bench of this Court in Public Interest Litigation. Therefore, the contention of the petitioner that the impugned suspension order issued by the third respondent based on the same allegations cannot be sustained. Hence, the writ petition is liable to be dismissed.

7. A perusal of the entire affidavit filed in support of the writ petition, it appears that the petitioner has projected that as if for the same allegations the third respondent has once again issued present suspension order and initiated disciplinary proceedings, which cannot be sustained. But it is pertinent to note that the petitioner has suppressed the directions of a Division Bench of this Court in Public Interest Litigation wherein, the respondents were directed to take appropriate action against the petitioner and his allies for the embezzlement of Panchayat funds which had taken place during the year 2006-2007 to 2014-2015. In fact, as against this, the petitioner was already issued with a show cause notice dated 25.09.2017 by the third respondent and the petitioner also submitted a letter dated 01.07.2020, agreeing to repay the said revenue loss and gave consent for deducting 50% of his salary. As regards the charge pertaining to 2015-2016, the petitioner refunded revenue loss of Rs.2,75,188/- and as such, his prolonged suspension came to be revoked at the instance of the



order dated 17.06.2020 and consequential charge memo dated 25.06.2020 are relating to the charge pertaining to the year 2006-2007 to 2014-2015. Therefore, the contention of the petitioner that the impugned suspension order was issued for the same set of allegations, cannot be sustained.

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8. In view of the above, the prayer sought for by the petitioner cannot be granted. In fact, there is absolutely no impediment for the respondents to proceed with the enquiry proceedings pertaining to the charge for the year 2006-2007 to 2014-2015, but the respondents have not taken any action till 2020. However, taking note of the fact that already charge memo dated 25.06.2020 has been issued, this Court, without expressing any opinion on merits directs the respondents to proceed with the enquiry and conclude the same within a period of three months from the date of receipt of a copy of this order, failing which the impugned suspension order dated 17.06.2020 shall stand revoked and the petitioner may be reinstated and posted in a non-sensitive post.

9. With the above direction, the Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

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Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Secretary to Government,
State of Tamil Nadu,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai-9
2. The Director of Rural Development and Panchayat Raj,
Directorate of Rural Development and Panchayat Raj,
Panagal Building, Chennai-600 015.
3. The District Collector,
Trichy District, Trichy.

<https://hcservices.ecourts.gov.in/hcservices/>



4.The Personal Assistant to District Collector(Development) ,
O/o.The Collector Office Campus,
Trichy District, Trichy.

5.The Block Development Officer(Village Panchayat) ,
O/o.Block Development Officer,
Manachanallur Panchayat Union,
Trichy District.

6.The President,
Varakuppai Panchayat,
Pullambadi Panchayat Union,
Trichy District.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-3784 [F] dated
08/12/2021)

+1 CC to M/s.SPL GP (SR-37782[F] dated 08/12/2021)

W.P (MD) No. 7404 of 2020
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RS(26.02.2022) 5P 9C