



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.08.2021

CORAM

THE HON'BLE MR. JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P. (MD) No.14417 of 2021

and

W.M.P.No.11349 of 2021

WEB COPY

Kesavan

... Petitioner

Vs.

1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Fort.St. George,
Chennai-09.

2.The District Collector,
Sivagangai District,
Sivagangai.

3.The Revenue Divisional Officer,
Sivagangai,
Sivagangai District.

4.The Block Development Officer,
Sivagangai Panchayat Union,
Sivagangai,
Sivagangai District.

5.The Chairman,
Sivagangai Panchayat Union,
Sivagangai District.

6.Manjula,
The Chairman,
14th Ward Councilor-Kanjirangal,
Sivagangai Panchayat Union,
Sivagangai District.

7.Velmurugan,
13th Ward Councilor-Kovanoor,
Sivagangai Panchayat Union,
Sivagangai District.

8.S.Laxmi,
18th Ward Councilor,
Mangudi Therkuwadi,
Sivagangai Panchayat Union,
Sivagangai District.



9.Ramesh,
12th Ward Councilor-Mattur,
Sivagangai Panchayat Union,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, forbearing the first respondent to fourth respondents from initiating and/or proceedings with any proceedings under Sections 208 and / or 212 of the Tamil Nadu Panchayats Act, 1994 in relation to any removal proceedings or no-confidence motion against the petitioner and further directing that the 6th to 9th respondents be qualified from participating in any removal proceedings and /or no confidence motion proceedings against the petitioner.

For Petitioner : Mr.M.Dinesh
For Respondents : Mr.P.Subharaj
: Counsel for Government
for R1 to R3
Mr.A.K.Manikkam for R4

O R D E R

The petitioner seeks to prevent respondents 1 to 4 herein from initiating proceedings under Sections 208 or 212 of the Tamil Nadu Panchayats Act, 1994.

2. The petitioner states that he successfully contested the panchayat election in the year 2020 as an independent candidate and was elected in respect of the 16th ward, Keelavaniyangudi, of Sivagangai Panchayat Union.

3. The petitioner states that, initially, the majority of the councillors who were elected were from the AIADMK. It is stated that after the DMK party succeeded in the Assembly Election of 2021, the sixth to ninth respondents have defected to the ruling party. In these circumstances, the petitioner states that he reasonably apprehends that action would be initiated for his removal under Section 208 of the Tamil Nadu Panchayats Act, 1994 or a non-confidence motion may be moved against him under Section 212 thereof. The present writ petition is filed to prevent respondents 1 to 4 herein from initiating action under the aforementioned Sections of the Tamil Nadu Panchayats Act, 1994.

4. A mandamus is issued when a public authority, which qualifies as State under Article 12 of the Constitution, fails to discharge a statutory duty in spite of being called upon to do so. A mandamus cannot be issued to restrain the exercise of statutory rights or powers. It is a different matter that a person aggrieved, including the petitioner herein, can assail the decision if such statutory power is exercised in contravention of the relevant

statutory provision or even if the exercise of power can be shown to be mala fide.

5. For the reasons aforesaid, the present writ petition is not maintainable. Consequently, W.P.(MD).No.14417 of 2021 is dismissed without any order as to costs. However, it is clarified that it would be open to the petitioner to challenge any measures taken under the provisions of the Tamil Nadu Panchayats Act, 1994 in case the petitioner is of the view that such measures have been taken in contravention of statute or are vitiated for any other reason.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

sbm

To

- 1.The Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Fort.St. George, Chennai-09.
- 2.The District Collector,
Sivagangai District, Sivagangai.
- 3.The Revenue Divisional Officer,
Sivagangai, Sivagangai District.
- 4.The Block Development Officer,
Sivagangai Panchayat Union,
Sivagangai, Sivagangai District.
- 5.The Chairman,
Sivagangai Panchayat Union,
Sivagangai District.

+1 CC to M/s.GP (SR-26489[F] dated 17/08/2021)

W.P. (MD) No.14417 of 2021

16.08.2021

RD(25.08.2021) 3P 7C