



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 29.11.2021
PRONOUNCED ON : 08.12.2021
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P. (MD)No.15337 of 2021

and

W.M.P. (MD)No.12235 of 2021

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P.Narayanan

... Petitioner

vs.

1.The District Collector/Inspector of Panchayats,
Sivagangai District, Sivagangai.

2.The Assistant Director (Panchayat),
Collectorate, Sivagangai.

3.The Block Development Officer (Village Panchayat),
Kannankudi Panchayat Union, Sivagangai District.

4.S.Meenal,
Vice President,
Kalathur Panchayat, Kannankudi Panchayat Union,
Sivagangai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned proceedings in Na.Ka.A2/605/2021, dated 16.08.2021 on the file of the first respondent and quash the same insofar as removing the petitioner's cheques and PFMS (Public Financial Management System) Forms signing power as Panchayat President/Executive Officer of Kalathur Panchayat, Kannankudi Panchayat Union, Sivagangai District and handing over the same to the third respondent alone.

For Petitioner	:Mr.M.Ajmal Khan Senior Counsel for Mr.A.N.Ramanathan
For R1 and R2	:Mr.D.Ghandiraj, Special Government Pleader
For R3	:Mr.K.S.Selva Ganesan, Additional Government Pleader
For R4	:Mr.G.Prabhu Rajadurai for Mr.Muralikumar

ORDER

This Writ Petition has been filed in the nature of Certiorari calling for the records relating to the impugned proceedings in Na.Ka.A2/605/2021, dated 16.08.2021, on the file of the first

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



respondent and to quash the same. In the said proceedings, the first respondent/the District Collector/Inspector of Panchayats, Sivagangai District, had withdrawn the cheque signing power of the petitioner, who was and is the Panchayat President of Kalathur Panchayat, Kannankudi Panchayat Union, Sivagangai District.

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2. In the affidavit filed in support of the Writ Petition, it had been stated that the petitioner was elected as President of Kalathur Panchayat, Kannankudi Panchayat Union, Sivagangai District, in the local body elections and assumed office in January, 2021. He had also been elected as President between 2001 and 2006. The fourth respondent herein is one of the Ward Members and had been elected as Vice President. The petitioner and the fourth respondent were jointly responsible for signing cheques.

3. It is claimed by the petitioner that Sureshkumar, the husband of the fourth respondent interfered with the management of Panchayat from January 2021 and illegally demanded grant of tenders to him. The petitioner claimed that he refused to cooperate with the demand. Thereafter, the fourth respondent also refused to cooperate for the smooth functioning of the Panchayat. She refused to sign cheques and also Public Finance Management System forms for distribution of the expenses, which occurred in the Panchayat from January'2021.

4. It had been further stated that the Panchayat has bank accounts with Bank of Baroda, Devakottai Branch and IDBI bank, Kannankudi Branch. The fourth respondent had given her specimen signatures before the above Banks for operating the bank accounts. This has been attested by the third respondent/Block Development Officer(Village Panchayat), and also by the Zonal Block Development Officer, Kannankudi Panchayat. It had also been stated in the affidavit that the fourth respondent avoided participating in the Panchayat meeting from January 2021. The cheques and the PFMS forms were signed by the petitioner and forwarded to the house of the fourth respondent by the Secretary of the Panchayat. It is claimed that the Secretary was stopped in front of the house of the fourth respondent and the husband of the fourth respondent took the documents and obtained the signature of the fourth respondent. However, the said signatures did not tally with the specimen signatures available in the Banks. The Banks, therefore, returned the cheques and PFMS forms.

5. A complaint had been given by the Panchayat Secretary, Lakshmanan, to the second respondent and also to the petitioner. It has been further claimed by the petitioner that the Panchayat expenses were not able to be disbursed from January 2021. Thereafter, out of six Ward Members, four Ward Members passed a resolution in February 2021 to elect another Ward Member as Vice President and grant cheque signing powers. It is claimed that the said resolution is still pending on the file of the third



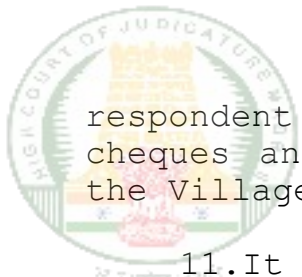
6.The petitioner, thereafter, made a representation on 23.03.2021 to the first respondent/District Collector to change the cheque signing authority from the fourth respondent. The third respondent, by proceedings, dated 04.05.2021, had fixed 11.05.2021, as the date of enquiry with respect of this particular aspect. However, the enquiry was not conducted, but adjourned to 27.05.2021. It is claimed that in the enquiry conducted on 27.05.2021, five Ward Members made a request to change the Vice President.

7.The fourth respondent has given a police complainant registered as CSR No.199 of 2021 claiming that her signature had been forged and Panchayat funds have been misappropriated. It was the further case of the fourth respondent that she had never signed any cheques or resolutions in the Panchayat and all her signatures were fabricated. The Inspector of Police, Sakkottai Police Station issued summons to the petitioner. The petitioner and the fourth respondent were also enquired and she had given her specimen signatures. The enquiry was thereafter closed as mistake of facts on 28.07.2021.

8.The fourth respondent also gave a similar complaint to the second respondent, who issued a show cause notice to the petitioner. The petitioner had given a written explanation. However, it is claimed that without conducting any further enquiry, the first respondent passed the impugned order removing the cheque signing power of the petitioner herein and directed that the same may be handed over to the third respondent. In the said order, the cheque signing power of the fourth respondent was also removed. Questioning that particular order, the present Writ Petition has been filed.

9.A counter affidavit had been filed by the third respondent/Block Development Officer (Village Panchayats), Kannankudi Panchayat Union, Sivagangai District, on behalf of the first to third respondents. In the counter affidavit, it had been stated that the petitioner/President and the fourth respondent/Vice President continued at loggerheads causing immense prejudice to the welfare of the inhabitants of the village. Therefore, the first respondent had no other option, but to take action under the emergency power conferred on him under Section 203 of the Tamil Nadu Panchayats Act, 1994, in the interest of public. It was further claimed that adequate alternate statutory remedy under Section 219 of the Tamil Nadu Panchayat Act, 1994, is available and that the Writ Petition is not maintainable.

10.It was also stated that the petitioner had given a complaint, which was received by the first respondent on 26.03.2021 alleging that the husband of the fourth respondent interfered with the day-to-day administration of the Vice President. It had been



respondent in the cheques and this has resulted in bouncing of the cheques and that since January 2021, the entire administration of the Village Panchayat had come to a stand still.

11.It had been further stated that the second respondent had conducted an enquiry and the Ward Members of Ward Nos.1, 2, 3 and 6 had given in writing that the fourth respondent was not attending the Village Panchayat Council meeting and was not cooperating with the other members.

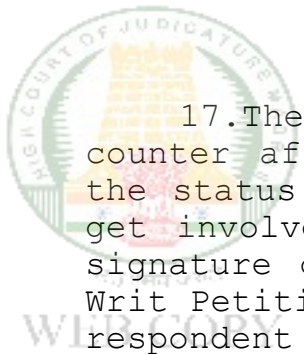
12.It was also stated that however, the fourth respondent, on the other hand, stated that the petitioner was committing various irregularities and was receiving commission for every work and was not convening any meeting and was floating tenders to issue work orders at his whims and fancies for his personal enrichment. She also alleged that it was the petitioner, who actually forged her signatures.

13.The petitioner, thereafter, gave a letter, which was received on 07.07.2021 seeking to transfer the cheque signing power from the fourth respondent and hand over to the member of the Ward No.2 in accordance with the resolution, dated 07.07.2021.

14.The Panchayat Secretary had also given a representation that the husband of the fourth respondent had forged the signature of the fourth respondent. It was also stated that one S.Saravanan, and five others also gave a petition, dated 19.07.2021 to the second respondent complaining about the misdeeds of the petitioner. Both the petitioner and the fourth respondent had been issued with show cause notices.

15.The petitioner, by a letter, dated 04.08.2021, again reiterated the averments in the earlier complaint. The fourth respondent in her explanation, dated 03.08.2021, alleged that the petitioner had forged her signatures and misappropriated a sum of Rs.15,00,000/-. The Panchayat Secretary, Lakshmanan, had filed a complaint before the first respondent stating that the petitioner, without floating tender or calling for bids, awarded contract for the works done under the 14th and 15th Finance Commission. It was stated that the petitioner and the fourth respondent were acting against the interest of the villagers and that salary was not paid for six months and that the development activities were not met from the month of January 2021.

16.It was, therefore, stated that as a temporary measure, the cheque signing power was withdrawn from the petitioner as well as the fourth respondent and was entrusted with the third respondent and the concerned Zonal Block Development Officer. Since it was only a temporary basis, it was claimed that the Writ Petition was pre-mature and should be dismissed.



17.The fourth respondent filed a counter affidavit and in the counter affidavit, it had been stated that the petitioner ignored the status of the fourth respondent and acted on his own. He also got involved in various fraudulent activities and also forged the signature of the fourth respondent. It had been claimed that the Writ Petition has been filed suppressing the said facts. The fourth respondent specifically denied that her husband interfered with the management of the Panchayat and also denied that she refused to cooperate with the smooth functioning and that she refused to sign the cheque and PFMS forms.

18.It had been claimed that the petitioner and the Panchayat Secretary, Lakshmanan, joined together, taking advantage of the fourth respondent, who was a woman and kept her in dark and forged her signature in the PFMS forms to receive and misappropriate Panchayat money. It had been stated that the petitioner collected her Addhar card and photographs by holding that they were required for identity card, but used them for opening bank accounts by forging her signature. She alleged that the petitioner and the Panchayat Secretary took advantage of her inexperience in administration.

19.The petitioner had some disputes with the Panchayat Secretary, who has given a complaint to the first respondent on 22.02.2021. An enquiry was conducted by the third respondent. She had reiterated her complaint against the petitioner. She also claimed that she filed a complaint before the Police who stated that they were awaiting further orders from the District Collector before registering the FIR. She claimed that her husband is working in Pudhukottai in a Crusher unit and is fully engaged in his work and has no time to involve in Panchayat activities. She also claimed that she came to the Panchayat Office only when she was elected and assumed charges.

20.She again specifically reiterated that she did not put the specimen signatures in the bank records nor she had put her signatures in the withdrawal form for withdrawing money from the bank. It was stated that the impugned order had been passed in view of the extraordinary situation, which has arisen and it was stated that the Writ Petition should be dismissed.

21.I have carefully considered the arguments advanced by Mr.M.Ajmal Khan, learned Senior Counsel for the petitioner, Mr.D.Ghandiraj, learned Special Government Pleader for R1 and R2, Mr.K.S.Selva Ganesan, learned Additional Government Pleader for R3 and Mr.G.Prabhu Rajadurai, learned Counsel for R4.

22.The petitioner and the fourth respondent filed copies of documents. The petitioner filed the specimen signature papers submitted to Bank of Baroda, Devakottai branch, PFMS forms, notice of the first respondent, enquiry report of the Inspector of Police,



Sakkottai Police Station, show cause notice issued by the second respondent, representations given by the petitioner and the copy of the impugned order passed by the first respondent.

23.The fourth respondent had also filed copies of the complaint given by the Panchayat Secretary and also a copy of the CSR receipt and copies of representations given by the Ward Members.

24.It is the contention of Mr.M.Ajmal Khan, learned Senior Counsel appearing on behalf of the petitioner that the petitioner had never absented and had never refrained from signing the cheques. If at all, there are any allegations, the proper approach is to take recourse to Section 188(3) of the Tamil Nadu Panchayats Act, 1994. However, removal of the petitioner not only from the cheque signing power, but also to act as President had seriously impinged on the reputation of the petitioner. It had been further specifically pointed out by the learned Senior Counsel that the show cause notice was issued by the second respondent, but, however, the impugned order had been passed by the first respondent. Enquiry was also conducted only by the second respondent. Reply was given to the second respondent. On the basis of such show cause notice and reply, there was an obligation on the part of the second respondent to come to a finding and thereafter, the first respondent should have made further enquiry before passing the impugned order. It had therefore been stated that the grievances of the petitioner had not been addressed properly.

25.The learned Senior Counsel further stated that there are allegations as against the fourth respondent and as a matter of fact, her husband had directly interfered with the functioning of the Panchayat. Substantial number of Ward Members had passed a resolution removing the fourth respondent from the post of Vice President. It had been contended by the learned Senior Counsel that the impugned order should be interfered with and the petitioner's status as President should be restored and all the rights conferred with such status should be recognised and granted.

26.Mr.D.Ghandiraj, learned Special Government Pleader appearing for the respondents 1 and 2, however, pointed out that the entire work of the Village Panchayat had come to a standstill owing to the acrimonious dispute between the petitioner and fourth respondent. There had been allegations and counter allegations. As a matter of fact, the learned Special Government Pleader stated that the very specific allegation made that the fourth respondent's specimen signature had been forged in the bank records and to bring about the normalcy in the Village Panchayat, the first respondent, as Inspector of Panchayats, had exercised his power and had withdrawn the cheque signing power from the petitioner and from the fourth respondent. He had also stated that this is only a temporary measure, so that the immediate expenses and other expenditure can be incurred for the smooth functioning of the Panchayat and the learned



Special Government Pleader stated that when further enquiry is conducted or contemplated to be conducted, the petitioner can always participate in the same.

27.Further, the learned Special Government Pleader justified the act of withdrawing the cheque signing power not only from the petitioner, but also from the fourth respondent and stated that the welfare of the Panchayat is of paramount interest and has to be preserved and reiterated that the decision of the first respondent is proper, lawful and had been exercised with lawful discretion vested in the first respondent.

28.Mr.G.Prabu Rajadurai, learned Counsel for the fourth respondent raised allegations against the petitioner herein. The learned Counsel stated that the fourth respondent's signature in the two banks have been forged by the petitioner. Accounts have been opened without the knowledge of the fourth respondent. The fact that the fourth respondent is a lady had been exploited. Learned Counsel further stated further that the fourth respondent therefore, had given a further complaint making allegations against the petitioner herein. He further stated that the documents with respect to actual signature had been produced before the bank authorities.

29.The learned Counsel specifically denied the involvement of the husband of the fourth respondent with any of the official works. The learned Counsel pointed that he is working in a crusher unit in a different district altogether and therefore, there was no possibility to him interfering with the official work. The learned Counsel stated that the step taken by the first respondent was proper and reiterated that after the accounts of the Village Panchayat are settled, necessary enquiry should be conducted against the nefarious activities of the petitioner. The learned Counsel also stated that the order under question need not be interfered with. He urged that the Writ Petition should be dismissed.

30.I have given careful consideration to the arguments advanced and the records available.

31.The petitioner is the President of Kalathur Panchayat in Kannankudi Panchayat Union, Sivagangai District and the fourth respondent is the Vice President in the same Panchayat Union. It is normally expected that being chosen as President and Vice President, they would work in tandem for the benefit of the general public within their jurisdiction and while discharging the public duty, would not enter into childish scrabbles between themselves. Sense and sensibility should prevail over pride and prejudice.

32.Public duty has not been defined in any of the enactments and it is a wide term, which encompasses discharge of official duty and personal and private interests. However, there is one



enactment, where, "**public duty**" has been defined and that is in the Prevention of Corruption Act, 1988, as amended.

33. "**Public duty**" has been defined as follows:

"2. **Definitions**.— (a).....

(b) "**public duty**" means a duty in the discharge of which the State, the public or the community at large has an interest;"

34. Naturally, any person, who had taken upon himself or herself the onerous responsibility of discharging public duty, should also be prepared to be held accountable for acts of commission and omission, which deter and have directly affected the welfare of the people and interfered with official duties.

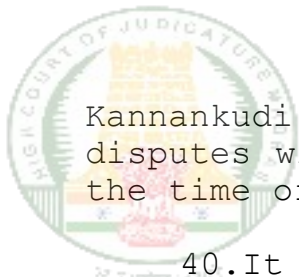
35. In this case, allegations and counter allegations are alleged and levelled by the petitioner and the fourth respondent against each other. They might well be school children rather than be termed as President and Vice President of a Panchayat Union. Utter lack of responsibility to discharge public duty has been exhibited by them with supine indifference.

36. The allegations are quite serious. The fourth respondent has alleged that the petitioner had fabricated her signatures in the specimen forms given to the Bank to open bank accounts. It is lamented by the learned Counsel for the fourth respondent that the fourth respondent's actual signatures came to be viewed with suspicion by the bank officials. The petitioner, on the other hand, has alleged that the signatures of the fourth respondent had actually been put by her husband and claimed that the said signatures, therefore, varied from time to time in accordance with swings and moods of the husband and the fourth respondent.

37. Naturally, the difference would affect the nucleus functioning of any public servant, namely, to utilise the budget allotted for expenditure towards public welfare.

38. There are also allegations that with the fabricated signatures of the fourth respondent, the petitioner had withdrawn moneys from the bank. The petitioner had, however, alleged that he was not able to disburse the budgeted expenses from January'2021 onwards and further claimed that a majority of the Ward Members had passed a resolution to remove the fourth respondent as Vice President.

39. The ultimate sufferer of all these internal skirmishes was the Panchayat Union as a whole, the other Office bearers in part and general public for whom apparently, neither the petitioner nor the fourth respondent have any respect or concern. The bank accounts with the Bank of Baroda, Devakottai Branch and IDBI bank,



Kannankudi Branch have been rendered inoperational owing to the disputes with even the specimen signatures forwarded to the Bank at the time of opening accounts being suspected.

40.It is under these circumstances, the second respondent had issued a show cause notice to both the petitioner and the fourth respondent. Immediately, both of them realised the predicament to which they had dragged themselves and replies had been given projecting innocence, claiming ignorance and seeking indulgence.

41.It is the contention of the learned Senior Counsel for the petitioner that once show cause notice had been issued by the second respondent and explanations given, then there was a duty cast on the third respondent to examine the representation and give a finding whether the allegations in the show cause notice were true or false. It is claimed by the learned Senior Counsel that the investigation by the police officials with respect to the allegation of fabrication of signature had resulted as no case being registered and it is, therefore, contended that the said allegations against the petitioner are not founded on facts and have stood disproved.

42.The second respondent appears to have issued a show cause notice on 28.07.2021 to the petitioner herein. The allegations were direct. They were that, without passing any resolution and acting on own, the petitioner had issued tenders and awarded contracts and further, he had put the signatures of the fourth respondent and that reports in this regard had been received. Again, explanations were given. The first respondent then passed the impugned order and the said order is now questioned.

43.The learned Senior Counsel for the petitioner stated that among other reasons for the impugned order being passed to the disadvantage of the petitioner, was that the police officials were investigating the allegations that the petitioner had put the signatures of the fourth respondent. It is contended that however the police officials had closed the complaint.

44.A closure report does not mean that the entire allegations have been swept away. The report will have to be filled before the concerned Magistrate Court and there is every possibility of the same being even rejected or the de-facto complainant therein raising objections and the matters moving forward.

45.I hold that to the fact that there are allegations are more than sufficient to disqualify the petitioner and the fourth respondent herein from indulging further into nefarious activities as alleged. The first respondent and I hold, with much prudence, had withdrawn the cheque signing power of both the petitioner and the fourth respondent and had handed over the same to responsible officials. This was a step, which has to be taken and which the



46. Section 203 of Tamil Nadu Panchayats Act, 1994, is as follows:

"203. Emergency powers of Collector and Inspector.- Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a Panchayat or Executive Authority or Commissioner or Secretary is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the safety of the public and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union (General) Fund or the District Panchayat (General) Fund in priority to any other charges against such Fund except charges for the service of authorised loans."

47. In **S.Udayakumar Vs. District Collector-cum-Inspector of Panchayats, Tuticorin District, Tuticorin**, reported in **2009 (5) MLJ 537**, it had been held that Section 203 of the Act was only to tide over an emergency situation and power is given to the Collector. Even though it had been found in that particular case that there has been violation of principles of natural justice, in this particular case, notice had been issued and explanation had been received.

48. In **J.A.Karunanithi vs District Collector, Thiruvannamalai District**, reported in **2011 (5) MLJ 766**, the Court had held that withdrawal of cheque signing power of the President of Village Panchayat as an interim measure by the Inspector is within the power under Section 203 of Tamil Nadu Panchayats Act, 1994.

49. In **P.Suganthi vs District Collector-cum-Inspector of Panchayat, Thoothukudi District**, reported in **2011 (2) CTC 381**, it had been observed that "when proceedings is initiated as against a President of Village Panchayat for financial mischiefs, the transferring the cheque signing power from him to the Block Development Officer is definitely a case of emergency sitting within the provisions of Section 203 of the Tamil Nadu Panchayats Act, 1994, for the reasons that if the President is allowed to continue to sign the cheques, it would amount to endorse the alleged irregularities committed by him".

50. In this particular case, Section 183(3) of the Tamil Nadu Panchayats Act, 1994, does not come into play, since there are direct allegations as against the petitioner and the fourth respondent and allegations can be examined and determined only when the powers vested with the petitioner and the fourth respondent are withdrawn.



51. In **S. Perumal vs District Collector-cum-Inspector of Panchayats**, reported in **2011 (3) CTC 869**, it had been held that in view of the allegations against the President of the Village Panchayat, supported by reasons, the cheque signing power alone had been taken away as an interim measure and such exercise power was well within the power of the Inspector of Panchayats under Section 203.

52. It is thus seen that Courts have affirmed such action taken by the District Collector.

53. It is contended by Mr. M. Ajmal Khan, learned Senior Counsel for the petitioner that when notice was issued by a particular official, then it is incumbent that enquiry should also be conducted by the same official. It must be kept in mind that if the petitioner seeks conduct of an enquiry of the nature which he wants to have, then, charges should be framed and he must be specifically charged with signing as the fourth respondent in official documents and negotiable instruments. In this case, it is only a show cause notice, which had been issued. The first respondent, as the Inspector of Panchayats, has every power to examine the records, examine the notice issued, examine the explanations received and then come to a considered decision.

54. It is to enable the first respondent to come to a conclusion that notice was issued by the second respondent granting opportunity for explanation. A perusal of the explanation shows that once again there are allegations and counter allegations. The whole episode does not inspire confidence that the President would actually strive for the welfare of the people. For the reasons best known to him, he does not want the fourth respondent to be the Vice President. The person, who cannot work as a team or cannot act as the head of the team will necessarily have to suffer consequence. I find no reason to interfere with the order impugned.

55. With the aforesaid observations, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS III)

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Sub Assistant Registrar (CS)

cmr



To

1.The District Collector/Inspector of Panchayats,
Sivagangai District, Sivagangai.

2.The Assistant Director (Panchayat),
Collectorate, Sivagangai.

3.The Block Development Officer (Village Panchayat),
Kannankudi Panchayat Union, Sivagangai District.

+1 CC to M/s.AN.RAMANATHAN, Advocate (SR-37835[F] dated
08/12/2021)

+1 CC to M/s.SPL GP (SR-37906[F] dated 09/12/2021)

W.P.(MD)No.15337 of 2021
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MGJ(17.12.2021) 12P 6C