



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD) .No.13174 of 2014

and

M.P. (MD) Nos.2 and 3 of 2014

A.Muthiah

.. Petitioner

Vs.

1.The District Collector,
Sivagangai District,
Sivagangai.

2.The Block Development Officer,
Thiruppuvanam Panchayat Union Officer,
Thiruppuvanam.

3.The President,
Thiruppachethi Panchayat,
Sivagangai,
Rep by its
President Smt.S.Dhanalakshmi.

4.A.Sundarajan
Middle Street,
Thirupachethi Post,
Sivagangai District.

.. Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorari, calling for the records relating to the impugned order passed by the 2nd respondent in Na.Ka.No.P3/246/2012 dated 24.01.2012 and quash the same.

For Petitioner	:	Mr.B.Jameel Arasu
For R1 and R2	:	Mr.M.Lingadurai
		Government Advocate
For R3	:	Mr.R.R.Kannan
For R4	:	No appearance

ORDER

This Writ Petition is filed for issuance of a Writ of Certiorari, to quash the impugned order passed by the second respondent in Na.Ka.No.P3/246/2012 dated 24.01.2012, cancelling the resolution passed by the panchayat counsel.



2.The brief facts that are necessary for the disposal of the writ petition are as follows:

The petitioner is a graduate. By virtue of the proceedings of the President of the Panchayat viz., the third respondent, dated 10.11.2011, the petitioner was appointed as Panchayat Secretary. It is stated that previously the fourth respondent was working in the post of Panchayat Secretary in the third respondent Panchayat. Due to several irregularities and misappropriation stated to have been committed by the fourth respondent, the third respondent took a decision to dismiss the fourth respondent after following the procedure. It is also stated that the decision was approved by the Panchayat Council by resolution dated 13.01.2012. Based on the resolution of Panchayat, the third respondent appears to have removed the fourth respondent from the post of Panchayat Secretary. After removing the fourth respondent, the petitioner was appointed as Panchayat Secretary. Since the second respondent has now cancelled the resolution of Panchayat Council by which the fourth respondent was removed from service, the petitioner has approached this Court to quash the impugned order passed by the second respondent cancelling the resolution of Panchayat.

3.The learned counsel appearing for the petitioner states that the petitioner has *locus standi* to challenge the impugned order, as he is aggrieved. It is stated that the petitioner's appointment will be in jeopardy, in case, the order of the second respondent is allowed to exist. The learned counsel then submitted that the impugned order of the second respondent is without any authority, as the District Collector alone is competent to cancel the resolution passed by the panchayat, as per Section 202 of the Tamil Nadu Panchayat Act, 1994.

4.Section 202 of Tamil Nadu Panchayat Act 1994, reads as follows:

"202. (1) The Inspector may, by order in writing,-

(i) suspend or cancel any resolution passed, order issued, or licence or permission granted, or

(ii) prohibit the doing of any act which is about to be done or is being done, in pursuance or under colour of this Act, if in his opinion, ,

(a) such resolution, order, licence, permission or act has not been legally passed, issued, granted or authorised, or

(b) such resolution, order, licence, permission or act is in excess of the powers conferred by this Act or any other law or an abuse of such powers or is considered by the Inspector to be otherwise undesirable, or

(c) the execution of such resolution or order, or the continuance in force of such licence or permission or the doing of such act is likely to cause danger to human life,



health or safety, or is likely to lead to a riot or an affray: Provided that nothing in this sub-section shall enable the Inspector to set aside any election which has been held. .

(2) The Inspector shall, before taking action on any of the grounds referred to in clauses (a) and (b) of sub-section (1), give the authority or person concerned an opportunity for explanation.

(3) The power conferred on the Inspector under clause (c) of sub-section (I) may be exercised by the Collector in accordance with the provisions of that clause.'

5. Having regard to the provision of Section 202 of the Tamil Nadu Panchayat Act, this Court has no hesitation to hold that the power is given only to the Inspector of Panchayat namely the first respondent to cancel the resolution of the Panchayat Council. The Block Development Officer viz., the second respondent in the writ petition has no authority to exercise the power of the District Collector to cancel any resolution of Panchayat. The impugned order of the second respondent declining the resolution of the panchayat is invalid as without jurisdiction and not authorized in law.

6. As a result, this writ petition is allowed and the impugned order passed by the second respondent in Na.Ka.No.P3/246/2012 dated 24.01.2012, is quashed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 District Collector,
Sivagangai District,
Sivagangai.

2. The Block Development Officer,
Thiruppuvanam Panchayat Union Officer,
Thiruppuvanam.

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



+1 CC to M/s.SPL.GP (SR-31541[F] dated 07/10/2021)

+1 CC to M/s.S.DEENADHAYALAN, Advocate (SR-31635[F] dated 07/10/2021)

+1 CC to M/s.R.R.KANNAN, Advocate (SR-31404[F] dated 06/10/2021)

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MGJ/JC (01.11.2021) 4P 6C