



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 23.11.2021
PRONOUNCED ON : 29.11.2021
CORAM

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

W.P.(MD)No.20082 of 2021

and

W.M.P.(MD)No.16782 of 2021

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Valarmathi

... Petitioner

vs.

1.The District Collector/Inspector of Panchayats,
Office of the District Collector,
Dindigul, Dindigul District.

2.The Block Development Officer (Village Panchayat),
Athur Union Office, Dindigul District.

3.The Zonal Deputy Block Development Officer,
Athur Union Office, Dindigul 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 order in Na.Ka.No.2987/2021/A4, dated 28.10.2021 passed by the first respondent and quash the same.

For Petitioner

:Mr.G.Prabhu Rajadurai
for Mr.S.M.A.Jinnah

For Respondents

:Mr.Veerakkathiravan
Additional Advocate General
assisted by Mr.A.K.Manickam

O R D E R

This Writ Petition has been filed in the nature of Certiorari, seeking interference with the impugned order in Na.Ka.No.2987/2021/A4, dated 28.10.2021, passed by the first respondent/District Collector/Inspector of Panchayats, Dindigul and to set aside the same.

2.The petitioner hails from Scheduled Caste community and had been elected as Village Panchayat President of Sitharevu Village, in the year 2019. Allegations have been raised by her against the Panchayat Clerk, who incidentally, is a son-in-law of the previous Panchayat President. The said Panchayat Clerk was transferred to Ayyankottai Village Panchayat, but, he was re-transferred to Sitharevu Village Panchayat.



3.It had been claimed that an anonymous complaint had been sent against the petitioner. On 02.10.2021, a Gramasabha meeting was held. The husband of the petitioner participated along with other village people. It is the claim of the petitioner that her husband never interfered with her official work. It is also claimed that the said Panchayat Clerk, with *mala fide* intention, had induced other Panchayat members to send complaints against the petitioner. The impugned order then came to be passed on 28.10.2021, in which, it was stated that the petitioner had failed to discharge her duty for providing basic amenities and further, between 01.04.2021 and 30.09.2021, it was also found by the Deputy Director (Panchayat) that expenditure had been sanctioned and spent without following rules and regulations. It had been claimed by the respondents that there had been revenue loss of Rs.4,43,820/-.

4.The petitioner claimed that under the impugned order, her power of signing the cheques had been divested and the same had been vested with the second and third respondents/Block Development Officer (Village Panchayat), Athur Union Office and Zonal Block Development Officer, Athur Union, by invoking Section 203 of the Tamil Nadu Panchayats Act, 1994. The petitioner claimed that she had sent a detailed representation on 01.11.2021 to cancel the said order, but, since there was no response, the present Writ Petition has been filed seeking to set aside the impugned order. It is claimed that no notice had been issued prior to the passing of the impugned order.

5.A counter had been filed on behalf of the second respondent/Block Development Officer, Athur Union, stating that complaint had not been levied against the Panchayat Secretary by the petitioner. It was also stated that the MGNREGS work was implemented through the Village Panchayat and the President alone issued job card and was allotting work, as Executive Officer. The work orders were issued to successful contractors. The entire process was only under the control of the President and the Secretary had no role in the tender process.

6.It was also stated that the Government had ordered to conduct Gramasabha on 02.10.2021 and accordingly, the Gramasabha was also conducted in Sitharevu Panchayat. The first agenda was to approve the expenditure upto 30.09.2021 made by the Village Panchayat. When the agenda was read out, the general public opposed the expenditure. More over, 12 Ward Members, out of the 15 Ward Members, boycotted the Gramasabha. The public also alleged that the husband of the petitioner, who was a former Union Chairman of Athur, interfered with official work and was actually working on behalf of the petitioner herein. It was also stated that even in the Gramasabha meeting, the petitioner's husband had replied to the various queries raised by the public.



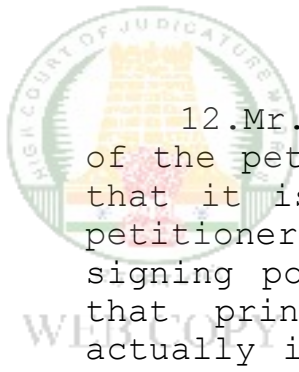
7. Thereafter, the District Collector, Dindigul, had directed the second respondent to conduct an enquiry and submit a report. A report was also submitted to the District Collector. An inspection was also done by the Assistant Director (Panchayat) on the basis of the report of the Block Development Officer, Athur and it is stated that there were some financial irregularities, which caused revenue loss to a sum of Rs.4,43,820/-.

8. It was also alleged that the petitioner had failed to conduct the Panchayat meeting in regular intervals. It was further stated that the District Collector, on the basis of the report and enquiry, issued the impugned order, taking away the cheque signing power of the petitioner on a temporary basis in order to prevent further loss of public money. Reliance was also placed on Section 203 of Tamil Nadu Panchayats Act, 1994, to justify the impugned order.

9. It was also stated that the Chief Secretary of the Government had issued a circular that relatives, sons or husbands of the women elected representatives should not interfere with the Panchayat administration. It was specifically stated that in this case, the husband of the petitioner actually interfered with official work. Various other allegations were levied as against the petitioner herein. It was also stated that when financial misdeeds are alleged, the cheque signing power can be transferred from the Village Panchayat President to the Block Development Officer, in cases of emergency. It was, therefore, stated that the impugned order did not suffer for want of authority and should be upheld by this Court.

10. Heard Mr.G.Prabhu Rajadurai, learned Counsel for Mr.S.M.A.Jinnah, learned Counsel for the petitioner and Mr.Veerakkathiravan, learned Additional Advocate General assisted by Mr.A.K.Manickam, learned Counsel for the respondents.

11. Both sides had also filed documents. The petitioner filed a copy of the transfer order of the Village Panchayat Assistant and the representation given her subsequent to the impugned order being passed. An additional typed set was also filed by the petitioner giving the proceedings of the second respondent along with a report of the Zonal Deputy Block Development Officer, dated 01.10.2020 and also the monthly Accounts Form and Certificate and work orders. The second respondent filed notices issued by the second respondent to the petitioner with respect to the removal of a particular encroachment and the proceedings of the District Collector and copies of the complaints given against the petitioner and also a series of photographs, wherein, it has claimed the husband of the petitioner actually participated in the Panchayat works.



12.Mr.G.Prabhu Rajadurai, learned Counsel appearing on behalf of the petitioner drew attention to the impugned order and stated that it is very obvious that notice had not been issued to the petitioner before the order had been passed withdrawing the cheque signing power from the petitioner. The learned Counsel lamented that principles of natural justice were not followed, were actually ignored and had been done so deliberately. The learned Counsel for the petitioner stated that the said panchayat was originally meant for general category and thereafter, was categorised as a reserved constituency and more particularly for woman and the petitioner herein had won the elections in 2019. He stated that due dignity was not shown to the petitioner herein. He also stated that the Panchayat Clerk, who had been transferred by the petitioner herein, some how was able to come back by getting a re-transfer order and was the cause for levelling unsubstantiated complaints against the petitioner. The learned Counsel stated that even if there are charges against the petitioner, it was only appropriate that the said charges are put to the petitioner and her explanations invited and examined.

13.The learned Counsel for the petitioner also stated that when Section 188(3) of the Tamil Nadu Panchayats Act, 1994, is available and could have been invoked, taking recourse to Section 203 of the Tamil Nadu Panchayats Act, is illegal, quite apart from invoking the said provision without issuing notice.

14.The learned Counsel also relied on a judgment of this Court reported in **2011 (2) CTC 381**, in the case of **P.Suganthi vs The District Collector cum Inspector of Panchayat and another**, wherein, a Division Bench of this Court had very clearly stated that an order passed without notice and without seeking explanation has to be struck down by the Court. The learned Counsel, therefore, stated that the petitioner's right of cheque signing power must be restored and the Writ Petition should be allowed.

15.Mr.Veerakkathiravan, learned Additional Advocate General appearing for the respondents, however, pointed out the provisions of Section 203 of Tamil Nadu Panchayats Act, 1994 and stated that under emergency circumstances, the District Collector had every authority, since he is also the Inspector of Panchayat, to withdraw the cheque signing power of the President. In this case, the learned Additional Advocate General pointed out the reasons given in the impugned order, namely, that owing to the non co-operation of the petitioner herein, even salary could not be paid and contractual obligations could not be satisfied and therefore, the situation warranted that cheque signing power should be withdrawn from the petitioner herein and handed over to a responsible Officer, which is only an interim arrangement.



16.The learned Additional Advocate General further stated that when further proceedings under Section 205 of the Tamil Nadu Panchayats Act, 1994, are initiated, the petitioner would certainly be put on notice and explanation would be invited and examined. The learned Additional Advocate General also stated that the judgment relied upon by the learned Counsel for the petitioner dealt with a situation, where, both Sections 203 and 205 of the Act were invoked and therefore, in that case, it was held that notice was imperative. In the instance case, the procedure under Section 205 of the Act had not yet been initiated and therefore, at this stage, under Section 203 of the Act, the question of issuing notice is never contemplated in any of the provisions.

17.The learned Additional Advocate General also pointed out that the petitioner, though elected as a President, was only a letter pad President and it was her husband, who continuously interfered with her official duty. He also participated in the Gramasabha meeting and this had naturally, forced other members to give a complaint against the petitioner herein. It is an unfortunate situation, wherein, the petitioner was not allowed to work independently by her husband. Documents, in the nature of photographs, were also pointed out by the learned Additional Advocate General. It was further pointed that a preliminary enquiry had been conducted, a report had been obtained stating that there had been misappropriation of public funds owing to the acts of commission and omission of the petitioner herein, which necessitated her cheque drawing powers being withdrawn to prevent further misappropriation and also to honour existing dues to pay salary and the bills to the existing contractors. The learned Additional Advocate General, therefore, stated that the impugned order being only an interim order, need not be set aside by the Court and urged that the Writ Petition should be dismissed.

18.I have given careful consideration to the arguments advanced and also perused the records.

19.Even before entering into a discussion on facts, the following provisions would be material to assist in determining the issues raised:

(a) **Section 188(3) of the Tamil Nadu Panchayats Act, 1994:**

"188.Village Panchayat Fund-

(1)

(2).....

(3) *Subject to such general control as the Village Panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund 10[***] shall be*



signed jointly by the President and Vice President and in the absence of the President or Vice President, as the case may be, by the Vice President or the President and another member authorised by the Village Panchayat at a meeting in this behalf.]”

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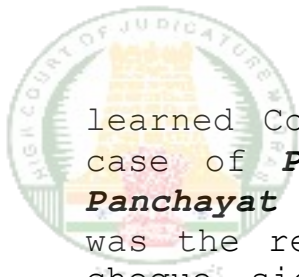
(b) **Section 203 of the Tamil Nadu Panchayats Act, 1994:**

"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."

20. The facts are simple. The facts are straight forward. The petitioner had been elected as President of Sitharevu Village Panchayat in the year 2019. As President, one of the privileges attached to the post was the authority to sign cheques. That authority had been withdrawn by the impugned order, necessitating filing the present Writ Petition. The respondents have justified the impugned order on the ground that, an enquiry had been conducted on the basis of a complaint against the petitioner herein and the enquiry revealed various acts, which can be termed as violating the norms in the handling of funds allotted to the Panchayat.

21. I am deeply conscious that I should not venture into an examination of the relevant merits and demerits of either the complaint or the proceedings under which an enquiry was conducted or the outcome of the enquiry. These are issues, which are beyond the purview of this Court. The judicial review of the impugned order has to be limited to determine whether the order was passed in manner known to law or whether prejudice has been caused to the petitioner and more importantly, whether case has been taken by the respondents to avoid complaints of prejudice caused to the petitioner.

22. The learned Counsel for the petitioner asserted that notice should have been issued to the petitioner before a decision had been taken to withdraw the cheque signing authority. That contention was based not only on the principles of natural justice but also on the dictum laid down, according to the



learned Counsel for the petitioner, in **2011 (2) CTC 381**, in the case of **P.Suganthi vs The District Collector cum Inspector of Panchayat and another**. In that case, the District Collector, who was the respondent therein, had passed an order transferring the cheque signing power of the appellant, who was the Panchayat President, to the Block Development Officer, pending an enquiry under Section 205 of the Tamil Nadu Panchayats Act, 1994. A Writ Petition was filed questioning transfer of such authority. The Writ Petition was dismissed. The petitioner therein took up the issue before the Division Bench on appeal. In the appeal, the Division Bench held as follows:

"11. When the proceedings is initiated as against the President of Village related to financial misdeeds, we are of the view that the transferring the cheque signing power from the Village President to Block Development Officer, the Second Respondent is definitely a case of emergency fitting within the provisions of Section 203 of the Act. If the Appellant is allowed to continue to sign the cheques, it would amount to endorse the alleged irregularities committed by the Appellant. Moreover, the transferring of cheque signing power is only an interim arrangement, till the completion of the proceedings initiated as against the Appellant under Section 205 of the Act.

12. The only aspect that has to be seen **whether the notice has been issued to the Appellant before transferring the cheque signing power to the Second Respondent, the Block Development Officer**. In the instant case, we find that the show cause notice was issued on 31.5.2010 by the District Collector expressing his intention to transfer the cheque signing power from the Appellant to the Second Respondent, the Block Development Officer. The Appellant has also sent a reply to the said show cause notice. Under such circumstances, the case relied upon by the learned Counsel for the Appellant **S. Udayakumar v. The District Collector-cum-Inspector of Panchayats, 2009 Writ L.R.538**, cannot be made applicable for the reason that the facts of that case would show that no notice was issued before passing the impugned order in transferring the cheque signing power.

13. In fact, in the Division Bench judgment in **Pugazhendran, President, Brammapnram, Village Panchayat v. B.G. Balu and others, 2005 (1) CTC 545 (DB) : 2005 (1) LW 506**, considered this issue. In that case, since show cause notice was not issued before passing the impugned order in transferring the cheque signing power, the order



was quashed. The relevant portion of the said judgment reads as follows:

"29. In the present case a perusal of the order of the District Collector, Vellore (Inspector of Panchayats, Vellore) dated 7.11.2002 cancelling the power of the Vice President to sign the panchayat's cheques as joint signatory, shows that **the District Collector has merely acted on the recommendation of the Block Development Officer, Katpadi Panchayat Union, and he has not applied his mind independently to the facts of the case, and he has not come to any independent conclusion** that the refusal to sign cheques by the Vice President was mala fide or for ulterior motives. **The District Collector, Vellore without issuing notice to the Petitioner appears to have mechanically accepted the report of the Block Development Officer, Katpadi Panchayat Union, which in our opinion was not proper.**

30. In paragraph-4 of the Petitioner's Affidavit it has been specifically alleged that no notice was given by the District Collector before passing the impugned order, and this allegation has not been denied by the Collector in his Counter Affidavit. In our opinion, the District Collector's order dated 1.11.2002 has Civil consequences, and hence it was incumbent on him to give a show cause notice to the Petitioner before passing it, which was not done. **Hence, in our opinion, there was violation of the Principles of Natural Justice, and the impugned order becomes illegal.**

31. **The District Collector, Vellore should have given a show cause notice and an opportunity of hearing to the Vice President (which need not have been a personal hearing as already stated above) and after considering the explanation and other materials submitted by the Vice President, he should have applied his mind independently and in a fair and impartial manner, and should have recorded his own reasons in the order he passed.** Since that does not appear to have been done in the order of the District Collector, Vellore dated 7.11.2002, in our opinion, the said order was rightly quashed. The matter is remanded to the District Collector, Vellore to pass a fresh order after giving an opportunity of hearing to the Vice President and President of the Panchayat, and others concerned, and after recording his reasons. This should be done very expeditiously by the District Collector, Vellore."



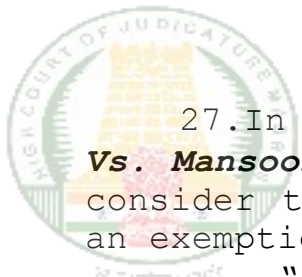
14. The principle laid down in the judgment would spell out a clear meaning that **after affording an opportunity by issuing show cause notice to the Village President the transfer of cheque signing power is made, no infirmity could be found.** In the instant case, after getting explanation from the Appellant by issuing show cause notice, the First Respondent passed by the impugned order and we do not find any infirmity in the order passed by the First Respondent. Hence, we are not inclined to make any interference in the order passed by the learned Single Judge." (Emphasis supplied).

23. In effect, the dictum laid down was that, when proceeding had been initiated against the President of a Village Panchayat relating to financial misdeeds and such proceeding had been initiated under Section 205 of the Tamil Nadu Panchayats Act, 1994, then, pending result or outcome of such proceedings, under Section 203 of the Tamil Nadu Panchayats Act, 1994, the District Collect, who incidentally was also the Inspector of Panchayas, can invoke the provision under Section 203 of the Act and term it as a case of emergency and transfer the cheque signing power. This was an interim arrangement till the completion of the proceeding under Section 205 of the Act.

24. In the said judgment, it was also held that show cause notice should be issued and in that particular case, the Division Bench has observed that the appellant therein was issued with a show cause notice and had also issued a reply to the show cause notice. It was, therefore, held that the transfer of cheque signing power was valid and the Division Bench did not interfere with the said order.

25. Mr. G. Prabhu Rajadurai, learned Counsel for the petitioner, however, pointed out the contra-dictum, which naturally follows, namely, that if the notice had not been issued prior to the withdrawal of cheque signing power, then, the order directing withdrawal of cheque signing should be interfered with by the Court. That was emphasised in **Pugazhendran, President, Brammapnam, Village Panchayat v. B.G. Balu and others** reported in **2005 (1) CTC 544 (DB)**, referred to by the Division Bench in the judgment cited supra.

26. There also precedents wherein, it had been held that the principle of natural justice cannot be stretched to extreme limits when issue of notice would be an empty formality.



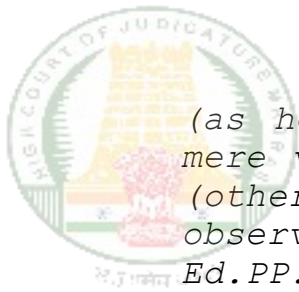
27. In (2000) 7 SCC 529, **Aligarh Muslim University and Others Vs. Mansoor Ali Khan**, the Hon'ble Supreme Court had an occasion to consider the effect of "useless formality" - a theory, which is an exemption to the principles of natural justice.

21. As pointed recently in **M.C. Mehta Vs. Union of India (1999 (6) SCC 237)**, there can be certain situations in which an order passed in violation of natural justice need not be set aside under Article 226 of the Constitution of India. For example where no prejudice is caused to the person concerned, interference under Article 226 is not necessary. Similarly, if the quashing of the order which is in breach of natural justice is likely to result in revival of another order which is in itself illegal as in **Gadde Venkateswara Rao vs. Government of Andhra Pradesh [1966 (2) SCR 172 = AIR 1966 SC 828]**, it is not necessary to quash the order merely because of violation of principles of natural justice.

22. In **M.C. Mehta (1999) 6 SCC 237** it was pointed out that at one time, it was held in **Ridge vs. Baldwin (1964 AC 40)** that breach of principles of natural justice was in itself treated as prejudice and that no other 'defacto' prejudice needed to be proved. But, since then the rigour of the rule has been relaxed not only in England but also in our country. In **S.L. Kapoor Vs. Jagmohan (1980 (4) SCC 379)**, **Chinnappa Reddy, J. followed Ridge vs. Baldwin** and set aside the order of supersession of the New Delhi Metropolitan Committee rejecting the argument that there was no prejudice though notice was not given. The proceedings were quashed on the ground of violation of principles of natural justice. But even in that case certain exceptions were laid down to which we shall presently refer.

23. **Chinnappa Reddy, J. in S.L. Kapoor's case [(1980) 4 SCC 379]**, laid two exceptions (at p.395) namely, "if upon admitted or indisputable facts only one conclusion was possible", then in such a case, the principle that breach of natural justice was in itself prejudice, would not apply. In other words if no other conclusion was possible on admitted or indisputable facts, it is not necessary to quash the order which was passed in violation of natural justice. Of course, this being an exception, great care must be taken in applying this exception.

24. The principle that in addition to breach of natural justice, prejudice must also be proved has been developed in several cases. In **K.L. Tripathi Vs. State Bank of India (1984 (1) SCC 43)**, **Sabyasachi Mukherji, J.**



(as he then was) also laid down the principle that not mere violation of natural justice but de facto prejudice (other than non-issue of notice) had to be proved. It was observed: quoting Wade Administrative Law, (5th Ed.PP.472-475) as follows: (para 31)

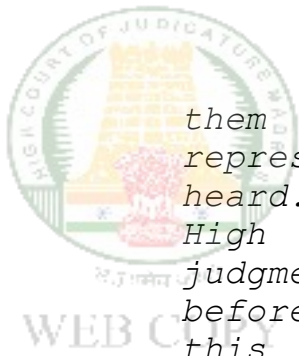
".....it is not possible to lay down rigid rules as to when principles of natural justice are to apply, nor as their scope and extentThere must have been some real prejudice to the complainant; there is no such thing as a merely technical infringement of natural justice. The requirements of natural justice must depend on the facts and circumstances of the case, the nature of the inquiry, the rules under which the tribunal is acting, the subject matter to be dealt with and so forth".

Since then, this Court has consistently applied the principle of prejudice in several cases. The above ruling and various other rulings taking the same view have been exhaustively referred to in State Bank of Patiala Vs. S.K. Sharma (1996(3) SCC 364). In that case, the principle of 'prejudice' has been further elaborated. The same principle has been reiterated again in Rajendra Singh Vs. State of M.P. (1996(5) SCC 460).

25.The 'useless formality' theory, it must be noted, is an exception. Apart from the class of cases of "admitted or indisputable facts leading only to one conclusion" referred to above,- there has been considerable debate of the application of that theory in other cases. The divergent views expressed in regard to this theory have been elaborately considered by this Court in **M.C. Mehta** referred to above. This Court surveyed the views expressed in various judgments in **England by Lord Reid, Lord Wilberforce, Lord Woolf, Lord Bingham, Megarry, J. and Straughton L.J.** etc. in various cases and also views expressed by leading writers like Profs. Garner, Craig, De. Smith, Wade, D.H. Clark etc. Some of them have said that orders passed in violation must always be quashed for otherwise the Court will be prejudging the issue. Some others have said, that there is no such absolute rule and prejudice must be shown. Yet, some others have applied via-media rules. We do not think it necessary, in this case to go deeper into these issues. In the ultimate analysis, it may depend on the facts of a particular case."

28.The same position had been reiterated in **2006 (8) SCC 647 [Punjab National Bank and Others]:**

"In an industrial dispute referred to by the Central Government which has an all-India implication, individual



them are not expected to be heard. The Unions representing them were impleaded as parties. They were heard. Not only the said Unions were heard before the High Court, as noticed hereinbefore from a part of the judgment of the High Court, they had preferred appeals before this Court, Their contentions had been noticed by this Court. As the award was made in presence of the Unions, in our opinion, the contention of Respondents that the award was not binding on them cannot be accepted. The principles of natural justice were also not required to be complied with as the same would have been an empty formality. The court will not insist on compliance of the principles of natural justice in view of the binding nature of the award. Their application would be limited to a situation where the factual position or legal implication arising thereunder is disputed and not where it is not in dispute or cannot be disputed. If only one conclusion is possible, a writ would not issue only because there was a violation of the principles of natural justice."

29.A Division Bench of this Court in a Judgement reported in **2006 4 LLN 358 [Dr.C.Chendroyaperumal Vs. National Institute of Port Management]** had also expressed their views on this aspect.

"9. Coming to the legal aspects canvassed by the learned counsel for the appellant, it is seen that they revolve around violation of the principles of natural justice. Even at the outset, we are not impressed with the said argument, since in our opinion, "Principles of natural justice is for thoroughbred horses and not wild horses." Wild horses understand only the language of the whip and hence there is no use trying to tame them with persuasion. The principles of natural justice themselves have traversed a long way from the stage at which they were treated as a "tharaka manthra" or panacea for all diseases, to the present stage where the Courts have started looking at the credentials of the person using them as a shield or sword and accepting the fact that they are not indispensable."

30.In the instance case, it has to be therefore, examined whether issuance of show cause notice would be an useless formality or whether it was essential to issue a show cause notice to the petitioner herein.

31.Reliance placed under Section 188(3) of the Tamil Nadu Panchayats Act, by the learned Counsel for the petitioner, cannot be pressed into service in the instant case, since it is not the case of either the petitioner herein or the respondents that the



petitioner was absent or had refused to sign the cheques, therefore, necessitating invoking Section 188(3) of the Act.

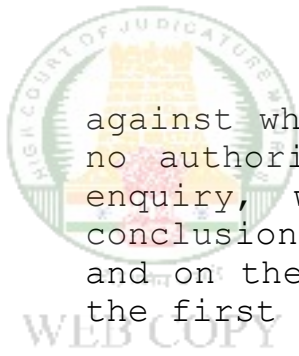
32. Reference made to Section 219 of the Act, which deals with revision, may also not come into play, since that provision is a fall out of an authorisation primarily under Section 218 of the Act. In the instant case, it is pertinent point out that proceeding under Section 205 of the Act had not been initiated against the petitioner.

33. Section 205 of the Act contemplates removal of the President and naturally, when such a proceedings, which might result in the removal of a President of the Panchayat had been initiated, then, it is only natural that pending such proceedings, the President is divested with the power to take any policy decision or to involve the President indulge in further acts relating to the funds of the Village Panchayat. It would appropriate that the financial aspects are deal with another independent officer and the President, during the course of such enquiry under Section 205 of the Act, should not be in a position to further involve himself/herself in any financial transaction.

34. In this case, the impugned order does not refer to initiation of proceeding under Section 205 of the Act. On the other hand, it refers to a complaint and an enquiry by the Block Development Officer/second respondent. When the impugned order speaks about a complaint and an enquiry, then, naturally the principles of natural justice will have to be applied. It cannot be termed as an useless formality. It is essential that the person, against whom a complaint had been levied or enquiry is conducted, is put on notice about such complaint and views are asked and thereafter, an the enquiry is conducted. Thus, even though the principles of natural justice had been limited in various cases cited above, in the instant case, when a drastic step is taken to withdraw the cheque signing authority, based on a complaint, then such complaint should have been put to the petitioner herein and her explanation should have been obtained. Even if an enquiry had been directed to find out whether the averments in the complaint are *prima facie* true in nature, then the result of the enquiry should have been put to the petitioner herein and her opinion sought.

35. Neither of these had been done by the first respondent. On the other hand, quite disturbingly, the first respondent had stated that the enquiry report can be considered as, "epjpapog;ghfTk; ifahlyhfTk; fUjg;gLfpwJ."

36. This conclusion can never and should never have been reached by any authority without giving notice to the person,



against whom such a imputation is cast. The first respondent had no authority to come to such a conclusion on the basis of an enquiry, which had been done without notice. The result or conclusion of the enquiry should have been put to the petitioner and on the basis of such explanation, an opinion can be formed by the first respondent.

37. More over, a reading of Section 203 of the Act also shows that rules had been framed with respect to exercise of power under Section 203 of the Act, namely, ***The Tamil Nadu Panchayats (Control of the Emergency Powers of Collector of Inspector) Rules, 2001, vide G.O.Ms.No.148, Rural Development (C-4), dated 31.05.2001.***

38. Rule 3 of ***The Tamil Nadu Panchayats (Control of the Emergency Powers of Collector of Inspector) Rules, 2001***, reads as follows:

"3. Intimation after exercise of emergency powers- Collector or the Inspector, shall, after exercise of the powers conferred by Section 203 of the Act, be reported forthwith to the Director of Rural Development with the reasons in full, for the exercise of such powers and a copy of the report shall, at the same time, be sent to the Panchayat for information."

39. In the counter, it had only been stated that power had been withdrawn by initiating proceeding under Section 203 of the Tamil Nadu Panchayats Act. It is indicated that the proceeding had not yet been initiated under Section 205 of the Act. It had not been stated whether Rule 3 of ***The Tamil Nadu Panchayats (Control of the Emergency Powers of Collector of Inspector) Rules, 2001***, has been complied with by the first respondent. It is, thus, clear that the first respondent had acted without adhering to any of the principles guiding natural justice.

40. The petitioner should have been put on notice or should have been marked with a copy of the complaint. Before initiating enquiry of the complaint, the petitioner's explanation should have been received. The enquiry under the complaint should have conducted with the participation of the petitioner. Her application should have been received. Only thereafter, could any decision be taken. None of the steps contemplated as fair and just have been taken by the first respondent. The impugned order therefore suffers. Adherence to principles of natural justice cannot be brushed away as an useless formality. They are part of the golden principles, which guides the first respondent, when he/she deals with an errant official. There is an obligation to put the official on notice and thereafter, initiate any action. Violation of that principle, results in quashing any action



initiated. In this case, the impugned order is, therefore, interfered with and set aside.

41.The petitioner had given a representation, on 01.11.2021. The respondents may examine the same and proceed further in accordance with procedure established by law and in manner recognised by law.

42.With the said observations, this Writ Petition is allowed. The impugned order is set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Cmr

To

1.The District Collector/Inspector of Panchayats,
Office of the District Collector,
Dindigul, Dindigul District.

2.The Block Development Officer (Village Panchayat),
Athur Union Office, Dindigul District.

3.The Zonal Deputy Block Development Officer,
Athur Union Office, Dindigul District.

+1 CC to M/s.SPL GP (SR-36731[F] dated 01/12/2021)

+1 CC to M/s.A.K.MANIKKAM, Advocate (SR-36836[F] dated 01/12/2021)

W.P.(MD)No.20082 of 2021
29.11.2021

RK(08/12/2021) 15P 6C