



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 19-01-2022

CORAM:

THE HON'BLE MR. JUSTICE R.SURESH KUMAR

W.P.NOS.589 AND 592 OF 2022
AND W.M.P.NOS.644 AND 647 OF 2022

S.A.Selvi ...Petitioner in W.P.No.589 of 2022
Jhansi Mary Thangarasan ...Petitioner in W.P.No.592 of 2022

-vs-

1. The State of Tamil Nadu
Rep. by its Secretary
Rural Development & Panchayat Raj Department,
Fort St. George,
Chennai.
2. The District Collector
Cuddalore District Collectorate,
Cuddalore.
3. The Revenue Divisional Officer
Virudachalam Division,
Virudachalam, Cuddalore District.
4. The Block Development Officer
Nallur Panchayat Union,
Nallur, Cuddalore District. ... Respondents in both the
writ petitions

Common prayer : Writ petitions filed under Article 226 of Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent issued in Na.Ka.No.A3/4640/2021, dated 27.12.2021 and the consequential notice in Na.Ka.No.A3/4640/2021, dated 04.01.2022 and quash the same and consequently direct the third respondent to conduct an enquiry into the complaint made by the petitioners on 29.12.2021 before proceeding with the enquiry for "No Confidence Motion" against the petitioners under Section 212 of the Tamil Nadu Panchayats Act 1994.

For Petitioners : Mr.C.Vigneshwaran
in both the writ petitions
For Respondents : Mrs.V.Yamuna Devi, Spl.G.P
in both the writ petitions



COMMON ORDER

The common prayer sought for herein in both these writ petitions is for a writ of Certiorarified Mandamus calling for the records of the third respondent issued in Na.Ka.No.A3/4640/2021, dated 27.12.2021 and the consequential notice in Na.Ka.No.A3/4640/2021, dated 04.01.2022 and quash the same and consequently direct the third respondent to conduct an enquiry into the complaint made by the petitioners on 29.12.2021 before proceeding with the enquiry for "No Confidence Motion" against the petitioners under Section 212 of the Tamil Nadu Panchayats Act 1994.

2. These two writ petitions have been filed by the Chairman and Vice Chairman of the Nallur Panchayat Union Council, Cuddalore District. Against these two petitioners, 14 out of 21 Panchayat Union Council members have given a notice for no-confidence motion under Section 212(2) of the Tamil Nadu Panchayats Act, 1994 on 22.12.2021. Based on this notice for no-confidence motion, having receipt of the same, the third respondent has issued a notice under sub-section (3) of Section 212, seeking to show cause within seven days period on 27.12.2021. Having receipt of the said notice dated 27.12.2021, the petitioners separately have given their reply on 31.12.2021 which was received by the third respondent through the fourth respondent.

3. Having receipt of the reply from the petitioners, in order to consider the said motion for no-confidence against them, the third respondent, under sub-section (4) of Section 212 of the Act, has convened a meeting of the Panchayat Union Council under communication dated 04.01.2022, under which, the meeting is proposed to be conducted on 20.01.2022 at 11.00 a.m. ie., tomorrow.

4. Challenging these two communications, i.e., communication, dated 27.12.2021 and the notice dated 04.01.2022, these petitioners have filed these respective writ petitions with the prayer sought for herein.

5. Heard Mr.C.Vigneshwaran, learned counsel appearing for the petitioners, who raised a point that, even in the notice for no-confidence given by the councillors on 22.12.2021, though it was claimed that 14 out of 21 councillors had signed, two councillors have not signed and therefore, based on such notice given or said to have been given by the councillors, the third respondent, Revenue Divisional Officer cannot take up the no-confidence motion for consideration and decision, for which, the meeting ought not to have been fixed as has been fixed through a communication dated 04.01.2022. Therefore, on that ground itself



the impugned proceedings are vitiated and the proposed meeting cannot be conducted as that would go against the procedure contemplated under Section 212 of the Act. Therefore, the learned counsel appearing for the petitioners seeks the indulgence of this Court against the impugned communication.

6. However, Mrs.V.Yamuna Devi, learned Special Government Pleader appearing for the respondents, on instructions, would submit that, once 3/5th of the total members of the Council have given a notice for no-confidence motion, under sub-section (2) of Section 212, after receipt of the same, having verified such notice, it is the duty of the third respondent, RDO, to proceed in accordance with the procedure contemplated under sub-sections (2), (3) as well as (4) of Section 212 of the Act and accordingly under Sub-section (3), a notice has been issued giving seven days time to reply, to the petitioners, who, having receipt of the same, had also given their reply on 30.12.2021. Having receipt of the same, under sub-section (4) of Section 212 of the Act, the third respondent has convened a meeting for consideration and to take a decision on the notice for no-confidence motion, for which the meeting is fixed at 20.01.2022 at 11.00 a.m, ie., tomorrow. Therefore, the said meeting going to be conducted tomorrow is strictly in accordance with the procedure contemplated under Section 212 of the Act, therefore, the said meeting need not be interfered at this juncture, she contended.

7. I have considered the submissions made by the learned counsel appearing for parties and have perused the materials placed before this Court.

8. A number of cases arising out of Section 212 of the Tamil Nadu Panchayats Act 1994 have come up before this Court. In these kind of cases, if the procedure contemplated under Section 212 of the Act is followed properly, there could be no plausible reason available for this Court to interfere with such action being taken by the Revenue Divisional Officer, who is the authority empowered under the said provision to conduct the no-confidence motion proceedings.

9. Here in the case in hand, though allegation has been made that out of 14 out of 21 members who have moved the no-confidence motion, two members have not signed the notice, those issues cannot be gone into at this juncture, because, the very copy of the notice dated 22.12.2021 has been filed by the petitioners in the typed set of papers, where, this Court finds that, 14 out of 21 members, with their name and address from which ward they have been selected with rubber stamp, have signed. Therefore, it cannot be prima facie stated that 2 out of 14 members have not signed.



10. Moreover, if two members have not signed the notice, as claimed by the petitioners, definitely those members may not have interest over the no-confidence motion and in that case, certainly in the meeting to be conducted in this regard for consideration of the no-confidence motion, they will vote against the motion. Therefore, that kind of issue can be taken care by the democratic process under which the deliberation and consideration of the no-confidence motion to be conducted.

11. In that view of the matter, this Court feels that even there is no prima facie case made out by the petitioners to have an interference against the impugned communication, which according to the procedure contemplated under Section 212 of the Act has been strictly followed, therefore, this court is not inclined to interfere with the impugned communication, therefore, the third respondent shall proceed with the conducting of the meeting as proposed under the impugned communication, which is slated to be conducted on 20.01.2022 at 11.00 a.m, but strictly in accordance with the procedure contemplated under Section 212 of the Act.

12. With these observations, these writ petitions are dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

svn

To

1. The Secretary
State of Tamil Nadu
Rural Development & Panchayat Raj Department,
Fort St. George, Chennai.
2. The District Collector
Cuddalore District Collectorate,
Cuddalore.
3. The Revenue Divisional Officer
Virudachalam Division,
Virudachalam, Cuddalore District.



4. The Block Development Officer
Nallur Panchayat Union,
Nallur, Cuddalore District.

+1cc to the Government Pleader, S.R.No.3708

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W.P.Nos.589 and 592 of 2022

SRG (CO)
KKV/19/01/2022