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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02-02-2022

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THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.1636 of 2022

And

WMP No.1783 of 2022

K.Murugan

.. Petitioner

vs.

1. The District Collector,
Cuddalore District,
Cuddalore-606 001.

2. The Assistant Director (Panchayats),
Virudhachalam,
Cuddalore District.

3. Block Development Officer,
Nallur Panchayat Union,
Cuddalore District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Mandamus, forbearing the respondents from proceeding under section 205 of Tamil Nadu Panchayats Act, 1994 against the petitioner without providing opportunity by furnishing the Panchayat records and other relevant documents to defend the show cause notice issued by the first respondent in Na.Ka.No.A1/506/2021 Office of Assistant Director (Panchayats), Virudhachalam dated 29.12.2021.

For Petitioner : Mr.G.Sankaran

For Respondents : Ms.V.Yamuna Devi,
Special Government Pleader.

O R D E R

The relief sought for in the present writ petition is to forbear the the respondents from proceeding under section 205 of Tamil Nadu Panchayats Act, 1994 against the petitioner



without providing opportunity by furnishing the Panchayat records and other relevant documents to defend the show cause notice issued by the 1st respondent in Na.Ka.No.A1/ 506/2021 Office of Assistant Director (Panchayats), Virudhachalam dated 29.12.2021.

2. The petitioner was elected as President of Pe.Puwanur Village Panchayat, Nallur Block, Cuddalore District in the Local Body Election held on December 2019. The petitioner assumed charge as President on 02.01.2020. The petitioner states that one Mr.R.Kanagasabai working as Secretary of Panchayat committed certain irregularities and indulged in other misconducts apart from non-maintenance of records in a proper manner. He was given several warnings and issued with a charge memo also.

3. In this context, the petitioner was issued with a show cause notice by the second respondent on 27.09.2021 stating that while conducting inspection, there is no resolution or documents in respect of the expenditures met out by the Panchayats. Accordingly, the second respondent-Assistant Director of Panchayat, Virudhachalam asked the petitioner to submit his explanations in writing within a period of one week. The Secretary of Panchayats thereafter was transferred. Another notice was issued to the petitioner on 25.10.2021, setting out the allegations against the petitioner regarding the irregularities in the matter of dealing with the funds of the Panchayats and further opportunity was given to the petitioner to submit his explanations, within a period of seven days. The petitioner submitted his explanations on 01.11.2021 to the second respondent-Assistant Director of Panchayats.

4. The petitioner has clearly set out his explanations in respect of allegations set out in the show cause notices dated 27.09.2021 and 25.10.2021. In the explanations submitted by the petitioner on 01.11.2021, the petitioner has given the details of payments made through the Panchayats. The petitioner has clearly stated that the expenditures set out in the explanations were made by passing a resolution and by registering in the records.

5. The petitioner further communicated a letter dated 09.11.2021 to the first respondent-District Collector, in response to the order passed by the Division Bench of this Court on 05.10.2021 in WP No.21461 of 2021. The said writ petition was filed by one Mr.K.Govindharaj as a public interest litigation to



direct the respondents 1 to 4 therein to consider the representation and initiate all suitable actions for illegal handling and misappropriation of funds of the Panchayats without maintaining any records or proper accounts.

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6. The petitioner, in response to the said orders of the Hon'ble Division Bench of this Court, submitted an explanation to the District Collector and Inspector of Panchayats on 09.11.2021. In the said letter also, the petitioner has clearly set out the details regarding the expenditures made by the Panchayats and finally stated that the resolutions were passed and based on the resolution, entries are made in the Expenditure Register. The explanation further continues by providing details regarding the allegations and the specific defence of the petitioner. It is stated that all records are maintained properly and necessary entries regarding the expenditures were made and therefore, the actions are to be dropped.

7. On receipt of the explanations from the petitioner, the Assistant Director of Panchayats sent an enquiry notice in proceedings dated 19.11.2021 and personal enquiry was conducted in the presence of the District Collector on 26.11.2021 at 05.30 P.M. Thereafter, a further statutory show cause notice was issued in proceedings dated 29.12.2021 under Section 205(1)(a) of the Tamil Nadu Panchayats Act, 1994.

8. The allegations set out in earlier show cause notices have been stated in the statutory show cause notice also. The statutory show cause notice was issued by the District Collector, who is the Inspector of Panchayats. The petitioner, in response to the statutory show cause notice, sent a letter dated 12.01.2022, stating that he has to verify the records for the purpose of submitting his further explanations.

9. The learned counsel appearing on behalf of the petitioner reiterated that only if records are produced, the petitioner would be in a position to submit further representation. Now the respondents are proceeding against the petitioner under Section 205 of the Tamil Nadu Panchayats Act, 1994 and therefore, the relief sought for in the present writ petition is to be considered for the purpose of providing an opportunity to the petitioner to peruse the records.

10. The learned Special Government Pleader, appearing



on behalf of the respondents, objected the said contentions of the petitioner by stating that the opportunity had already been provided to the petitioner and he had submitted his explanations also and therefore, the statutory show cause notice was issued and with a view to prolong the issues, the petitioner has filed the present writ petition. Thus, the present writ petition is to be rejected.

11. Considering the arguments, this Court is of the considered opinion that before issuing a statutory show cause notice under Section 205(1)(a) of the Tamil Nadu Panchayats Act, a preliminary enquiry was conducted by the Competent Authorities. The Assistant Director of Panchayats, at the first instance, issued two show cause notices on different dates and provided opportunity to the petitioner to submit his explanations. The petitioner also had submitted his detailed explanations, wherein the petitioner has clearly provided the Receipt Number and date details regarding the expenditures and the amount spent from the Panchayat funds. The entries made in the Expenditure Register are also set out in the explanations dated 01.11.2021 and 09.11.2021.

12. The petitioner has availed the opportunity provided by the Assistant Director of Panchayats and submitted his detailed explanations with reference to the entries made in the Expenditure Register and also the details regarding the expenditures. The question arises on what basis the petitioner has submitted his explanations along with all such details. Therefore, an inference is to be drawn that the petitioner has verified the details regarding the expenditures and provided particulars, including the entries made in the Expenditure Register.

13. On receipt of the explanations, the District Collector and Inspector of Panchayats conducted a personal enquiry on 26.11.2021. The petitioner participated in the personal enquiry and defended his case. Therefore, preliminary enquiry was conducted not only by issuing a show cause notice, wherein the petitioner has submitted his explanations and thereafter, the District Collector conducted the personal enquiry by providing an opportunity to the petitioner and the petitioner also availed the said opportunity and explained his case. Even before the District Collector during the course of personal enquiry, the petitioner has not made any such requests. Even in respect of the earlier show cause notices, the petitioner has not made any requests for furnishing of records or otherwise, to submit his explanations with all details.



14. Interestingly, when the statutory show cause notice was issued under Section 205 of the Act, for removal of President, is issued, setting out the allegations, thereafter the petitioner sent a letter on 12.01.2022, asking the Authorities to handover the documents and therefore, such a request made in response to the statutory notice, is an after thought. No doubt, the petitioner may verify the available records. However the manner in which the letter sent reveals that the petitioner is attempting to prolong and protract the issues one way or the other. Even then, the statutory show cause notice issued stipulates 21 days for the purpose of submission of explanations. Therefore, the petitioner can very well submit his explanations, as he has already provided with an opportunity to submit his explanations and a personal enquiry was conducted and he participated in the personal enquiry and furnished all details regarding the expenditures made and even in the written explanations, all such details are provided. Therefore, instead of responding to the show cause notice, the petitioner is attempting to protract the issues, which cannot be encouraged by the Courts.

15. The learned counsel appearing on behalf of the petitioner made a submission that after conducting the enquiry, the records are in the custody of the second respondent. However, during the personal enquiry, all the records were placed before the first respondent-District Collector and the petitioner also had participated in the personal enquiry conducted by the District Collector and the records were perused and scrutinised before the petitioner and opportunity was provided sufficiently to the petitioner. Therefore, further perusal of records would not arise at all. In view of the statutory show cause notice, the petitioner has chosen to send a letter in order to prolong and protract the issues, which cannot be considered.

16. In view of the fact that the writ petition is filed at the stage of show cause notice and the same need not be entertained and the petitioner, in response to the show cause notice, has to submit his explanations. Filing of such writ petition at every stage in order to lengthen the procedures also cannot be encouraged. Once the process commenced, then the petitioner has to avail the opportunity and defend the case properly. Instead, the litigants cannot be permitted to file writ petitions after writ petitions at every stage in order to frustrate the proceedings initiated by the Competent Authorities.

17. In the present case, two show cause notices were



issued earlier to the statutory show cause notice. The petitioner submitted his explanations on two occasions, providing all details and his defence and thereafter, a personal enquiry was conducted by the District Collector and Inspector of Panchayats and the records were perused at that point of time. Therefore, there is no reason to entertain the present writ petition at this stage and consequently, it stands dismissed. However, there shall be no order as to costs. Consequently, the connected miscellaneous petition is also dismissed.

Sd/-

Assistant Registrar(CS-VI)

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Sub Assistant Registrar

Svn

To

1. The District Collector,
Cuddalore District,
Cuddalore-606 001.
2. The Assistant Director (Panchayats),
Virudhachalam,
Cuddalore District.
3. The Block Development Officer,
Nallur Panchayat Union,
Cuddalore District.

+1cc to M/s.G.Sankaran, Advocate, S.R.No.6649

+1cc to the Special Government Pleader, S.R.No.6890

WP 1636 of 2022

RP(CO)
SU(16/02/2022)