



W.A.No.1373 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Orders Reserved on	Orders Pronounced on
18.10.2022	01.12.2022

CORAM

THE HONOURABLE MR.T.RAJA, ACTING CHIEF JUSTICE
AND
THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.A.No.1373 of 2022

S. Preethi

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Petitioner

Vs.

- 1 The Sub Divisional Executive Magistrate
Cum Revenue Divisional Officer,
Erode Division, Erode.
- 2 The Block Development Officer,
Kodumudi Panchayat Union, Kodumudi-638151
Erode District.
- 3 The District Collector/Inspector of Panchayat,
Erode District, Erode.
- 4 R.Lakshmi
- 5 P.Paramasivam
- 6 C.Valarmathi
- 7 T.T.Palanisamy
- 8 M.A.Palanisamy

...

Respondents

Appeal filed under Clause 15 of Letters Patent to set aside the order dated 20.12.2021 passed in W.P.No.17475 of 2021.



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For Appellant : Mr.C.Prakasam
For Respondents 1 to 3 : Mr.P.Muthukumar
State Govt. Pleader
For Respondents 4 to 8 : Mr.Ravi Anantha Padmanabhan
for Mr.M.Guruprasad

JUDGMENT

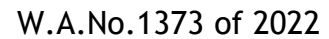
(Delivered by D.KRISHNAKUMAR, J.)

The short facts leading to filing of this Intra Court Appeal are as follows:

The appellant was elected as Vice Chairman of Kodumudi Panchayat Union in Erode District. There are totally six ward members in the said Panchayat Union. She was elected as ward member from Ward No.6 of the Panchayat Union in the local body election conducted in the year 2019 and she was successfully elected as Vice President of the Panchayat Union.

(i) While so, the fellow members moved no-confidence motion against the appellant. Accordingly, as per the procedure contemplated under Sec.212 of the Tamil Nadu Panchayat Act, 1994 majority members of the Panchayat Union have given a no-confidence motion notice on 3.2.2021 along with the charges signed by all the members.

(ii) Based on the notice of no-confidence motion, the first respondent served show cause notice dated 4.2.2021 calling for explanation



(iii) On receipt of the reply dated 25.3.2021, the second as per the procedure contemplated under Sec.212(4) of the said at a proceedings dated 7.7.2021 to convene a meeting on 3.8.2021 m. to decide the no-confidence motion against the appellant. The said meeting was cancelled due to some unavoidable reason he was communicated under the procedure contemplated under of the Act. Thereafter, as per the procedure contemplated under of the Act, meeting was fixed to consider the no-confidence motion 1 at 11.00 a.m. and the notice dated 2.8.2021 was served on

(iv) The meeting as proposed was conducted on 13.8.2021 where resolution of no-confidence motion against the petitioner was passed. Obviously, the appellant attended the said meeting, after registering her protest, walked out from the meeting. Based on the resolution passed, the appellant was removed from the post of Vice Chairman of the Panchayat Union Council.

(v) Challenging the resolution dated 13.8.2021 preside over by



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the first respondent, the appellant invoked Article 226 of the Constitution of India in W.P.No.17475 of 2021. The Writ Court upon hearing both sides and on perusal of the record, dismissed the writ petition.

(vi) Aggrieved by the order passed by the Writ Court, the instant appeal is filed before this Court.

2. The primordial contention of the appellant is that the petitioner was not given 7 days clear notice as contemplated under Sec.212(7) of the Tamil Nadu Panchayat Act, 1994 and therefore, no proper opportunity was given to the appellant before passing the impugned resolution in the meeting conducted by the first respondent. The learned counsel appearing for the appellant further contended that the Writ Court failed to consider that the appellant has submitted a detailed representation to the first respondent on 25.3.2021 denying each and every charges, more particularly, the appellant has specifically stated that the no-confidence motion is born out of vengeance for the reason that the appellant prevented the other members of the Council from abusing their official position, by collecting money for each and every works more particularly, for appointment of staffs for the Union and etc. Further, it is contended by the appellant that on 13.8.2021 the first respondent came and presided over the meeting and passed no-confidence motion without giving an opportunity and taking steps to refer the matter to the third



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respondent.

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3. In reply to the aforesaid submission, the learned State Government Pleader appearing for the official respondents stoutly denied the said allegations by stating that the notice was dispatched on 2.8.2021 which reached the concerned post office on 3.8.2021. The appellant has stated that from 3.8.2021 to 6.8.2021 continuously for 4 days, the petitioner could not receive the aforesaid notice. The learned Government Pleader appearing for the official respondents has submitted that the Writ Court has clearly observed that the notice reached the concerned postal office on 3.8.2021, however, in order to evade, the petitioner has not chosen to receive the notice even though it was sent to her place for delivery, instead, the notice was returned back to redeliver the same till she received the same on 7.8.2021. That apart, even though the appellant claimed that she was not in station, she did attend the Panchayat Union Council meeting on 5.8.2021 at Kodumdi, therefore, as rightly pointed out by the writ Court, there is no violation of procedure contemplated under Sec.212(7) of the Act, therefore, the appeal is liable to be dismissed.

4. Heard the rival submissions of the parties and perused the



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materials available on record.

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5. A perusal of the record shows that to bring no-confidence motion against the Chairman or Vice Chairman, Section 212(2) of the Act stipulates that 3/5th of the sanctioned strength of the Panchayat Union Council along with the statement of charges against the Chairman or the Vice Chairman as the case may be, shall be delivered in person to the Revenue Divisional Officer by any two members of the Panchayat Union Council signing the notice. Accordingly, on 3.2.2021 all the remaining members of the Panchayat Union Council signed the no-confidence motion and the same was delivered by two members in person to the second respondent on 3.2.2021 along with the charges. Thereafter, the second respondent has sent a show cause notice to the appellant to give reply to the charges. However, the appellant challenged the show cause notice before this Court in W.P.No.4715 of 2021 and the same was dismissed by this Court and granted 15 days time to give reply to the show cause notice. On receipt of the reply from the appellant dated 25.3.2021, the second respondent has taken steps as per the procedure contemplated under sub-section (4) of Section 212 of the Act, to convene a meeting on 3.8.2021. Due to some unavoidable reason, the meeting could not be conducted on 3.8.2021 and therefore, an advance notice dated 23.7.2021 was issued by the first respondent for cancellation of the meeting. Thereafter, the next date for



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the adjourned meeting was fixed as 13.8.2021.

6. The main contention of the appellant is that she was not provided 7 days clear notice as contemplated under Sec.212(7) of the Tamil Nadu Panchayat Act, 1994 and therefore, sufficient opportunity was not given to the appellant. A perusal of the record shows that the impugned notice was dispatched on 2.8.2021 which reached the petitioner's place on 3.8.2021. However, the appellant has not chosen to receive the impugned notice when the notice was sent to her place on 3.8.2021 for the reason best known to her. The postal endorsement made in the postal cover makes it clear that the appellant in order to evade receipt of notice from 3.8.2021 to 6.8.2021 returned the notice back for redeliver the same on 7.8.2021. It is pertinent to note that the appellant attended the meeting on 13.8.2021, where all the members of the Council including the appellant/petitioner were present. The resolution of no-confidence motion, except the petitioner, was unanimously passed.

7. Therefore, this Court is of the view that the Writ Court has rightly come to the conclusion that there is no violation of procedure contemplated under Sec.212(7) of the Act, Such view of the matter, the ground raised by the appellant/petitioner that the appellant was not afforded



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sufficient opportunity by the respondents is rejected. Therefore, we do not find any reason to interfere with the order passed by the Writ Court dated 20.12.2021 in W.P.No.17475 of 2021

Consequently, the appeal stands dismissed. No cost.

(T.R. ACJ.) (D.K.K.J.)
01.12.2022

Speaking/Non Speaking order

Index: Yes

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**T.RAJA, ACJ.
AND
D.KRISHNAKUMAR, J.**

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**Pre-Delivery Judgment in
W.A.No.1373 of 2022**

Dated: 01.12.2022