



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **07.06.2022**

CORAM

WEB COPY

**THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P. (MD) .No.14768 of 2011**

**and**

**M.P(MD)Nos.1 and 2 of 2011**

M.Tamilselvam

... Petitioner

Vs.

The District Collector/Inspectors of Panchayat  
Trichirappalli,  
Trichirappalli District.

... Respondent

**PRAYER :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned proceedings issued by the respondent District Collector/Inspectors of panchayat in Na.Ka.A8/1561/2008 dated 30.11.2011 and quash the same.

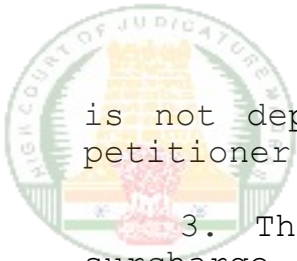
For Petitioner : Mr.E.V.N.Siva

For Respondent : Mr.D.Sasikumar  
Additional Government Pleader

**ORDER**

The present writ petition has been filed challenging an order passed by the respondent directing recovery of a sum of Rs.90,58,504/- (Rupees Ninety Lakhs Fifty Eight Thousand Five Hundred and Four) from the petitioner towards the alleged loss committed by the petitioner.

2. According to the learned counsel for the writ petitioner, the writ petitioner was a Panchayat President of Ellakudi Panchayat and he assumed office on 25.10.2006. According to the learned counsel for the writ petitioner, Section 205 of the Tamil Nadu Panchayat Act proceedings were initiated as against the petitioner. Before the proceedings could culminate, the term of the writ petitioner got over on 25.10.2011. Naturally, the proceedings initiated under Section 205 of the Tamil Nadu Panchayat Act should have been terminated by the respondent. However, the respondent proceeded to pass the impugned order on 30.11.2011 directing the petitioner to deposit a sum of Rs.90,58,504/- (Rupees Ninety Lakhs Fifty Eight Thousand Five Hundred and Four). In case, if the amount



is not deposited, surcharge notice will be issued as against the petitioner.

3. The learned counsel for the petitioner pointed out that surcharge proceedings are governed by a different set of rules, namely Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000. As per Rule 3, only the Assistant Director of rural development (Audit) was empowered to initiate surcharge and disallowance proceedings. Only if a Surcharge Certificate was issued under Section 4 of Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules 2000, District Collector will have an authority to invoke recovery proceedings. In fact, the District Collector is only an appellate authority under the said rules.

4. A perusal of the rules will clearly indicate that the District Collector has no jurisdiction, whatsoever to initiate proceedings for surcharge or order recovery from the panchayat president. That apart, the present impugned order has been issued without show cause notice or enquiry for the purpose of recovering the said amount. What was initiated as against the petitioner is proceedings under 205 of the Tamil Nadu Panchayat Act and not a surcharge proceeding. In these circumstances, the order of recovery passed by the respondent is without jurisdiction and the same is set aside.

5. Accordingly, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

The District Collector/Inspectors of Panchayat  
Trichirappalli,  
Trichirappalli District.

+1 CC to M/s.SPL.GP ( SR-24602[F] dated 08/06/2022 )

+1 CC to M/s.E.V.N.SIVA, Advocate ( SR-24926[F] dated 09/06/2022 )

W.P.(MD).No.14768 of 2011

07.06.2022

RD(17.06.2022) 2P 4C