



W.P(MD)No.4956 of 2013

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.07.2022

CORAM

THE HON'BLE MR.JUSTICE R.VIJAYAKUMAR

W.P(MD)No.4956 of 2013

and

M.P(MD)No.1 of 2013

K.Chellapandian

... Petitioner

Vs.

1.The District Collector and
Inspector of Panchayats,
Theni District,
Theni.

2.The Assistant Director (Panchayats),
Theni District,
Theni.

3.The Block Development Officer
(Village Panchayats),
K.Mayiladumparai Panchayat Union,
Theni District,
Theni.

... Respondents

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 order passed in Na.Ka.No. 36754/2012/Q.4 dated 05.03.2013 passed by the first respondent and quash the same.



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For Petitioner : Mr.A.Thirumurthy
For R1 & R2 : Mr.D.Sasikumar
Additional Government Pleader
For R3 : No Appearance

ORDER

The present writ petition has been filed challenging an order passed by the first respondent herein, under which the petitioner was directed to pay a sum of Rs.1,29,499/-(Rupees One Lakh Twenty Nine Thousand Four Hundred and Ninety Nine only) towards the excess expenditure incurred by the writ petitioner as President of a Village Panchayat while carrying out Dengue eradication programme.

2. According to the learned counsel for the petitioner, the District Collector has no jurisdiction, whatsoever to initiate the proceedings as against the President of the Panchayat. He further pointed out there is a specific statutory Rule, namely, Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000. As per the said Rules, only the Assistant Director of Rural Development (Audit) has got the powers to go through the bills and after affording due opportunity to the village Panchayat President, he has to issue a surcharge certificate. Only after a



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surcharge certificate is issued by the Auditor, the question of executing the same by the District Collector would arise. Thereafter, the petitioner has got a statutory appeal before the first respondent District Collector.

3. In the present case, the District Collector without issuing a show cause notice or conducting an enquiry, has passed the impugned order directing the petitioner to deposit a sum of Rs.1,29,499/-, which according to the first respondent has been spent in excess of the allotted funds.

4. In view of the statutory provisions, the first respondent has no jurisdiction, whatsoever to pass the order of recovery of the amount from the writ petitioner. Hence, the writ petition stands allowed. However, the Government is at liberty to initiate proceedings as per the Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules 2000, if they are so advised. No costs. Consequently, connected Miscellaneous Petition is closed.

25.07.2022

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Index : Yes / No
Internet : Yes / No

To

- 1.The District Collector and
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Theni.
- 2.The Assistant Director (Panchayats),
Theni District,
Theni.



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R.VIJAYAKUMAR ,J.

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Order made in
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