



W.P(MD)Nos.9542 & 9565 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 12.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.9542 & 9565 of 2021 and
WMP(MD) Nos.7288, 7289 & 7325 of 2021

K.Paunraj

... Petitioner in both WPs

Vs

**1.The Commissioner of Municipal Administration,
Chepauk,
Chennai.**

**2.The Regional Director of Municipal Administration,
Tirunelveli.**

**3.The District Collector,
Coimbatore,
Coimbatore District.**

**4.The Municipal Commissioner,
Puliyankudi,
Kadayanallur Taluk,
Tenkasi District.**

**5.The Regional Director of Municipal Administration,
Tiruppur.**

**... Respondents in W.P(MD)
No.9542 of 2021**



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- 1.The State of Tamilnadu,
Through its Secretary to Government,
Municipal Administration and Water Supply Department,
Fort St.George,
Chennai.
- 2.The Commissioner of Municipal Administration,
Chepauk,
Chennai.
- 3.The Regional Director of Municipal Administration,
Tirunelveli.
- 4.The Municipal Commissioner,
Valparai Municipality.
- 5.The District Crime Branch,
Through Deputy Superintendent of Police,
Coimbatore.
- 6.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore.

Respondents in W.P(MD)
No.9565 of 2021

PRAYER in W.P(MD) No.9542 of 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Certiorari, calling for the records relating to the impugned proceedings in Roc.No.8621/2021/C1, dated 04.05.2021 issued by the first respondent and the proceedings dated 15.04.2021 of the third respondent in Ref.No. 5688/2021/J4 and the consequential proceedings of the fourth respondent in Na.Ka.No.1165/2021/C1, dated 11.05.2021 and quash the same as illegal.



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PRAYER in W.P(MD) No.9565 of 2021: Writ Petition filed under Article 226 of the Constitution of India, seeking for issuance of a Writ of Mandamus, forbearing the respondents 1 to 4 herein, in any manner sharing or providing any information or any material relating to the petitioner and/or his service, with any one, based on the proceedings in Na.Ka.No. 01/DSP/PEW/CBE/21, dated 11/05/2021 of the sixth respondent.

For Petitioner : Mr.V.R.Shanmuganathan

For Respondents : Mr.J.Ashok
Additional Government Pleader
(in both WPs)

COMMON ORDER

These writ petitions are filed as against the proceedings dated 15.04.2021, 04.05.2021 and 11.05.2021.

2.Since both the writ petitions have been filed by the same petitioner and the issue in these writ petitions is interlinked, this Court is taking up both the writ petitions together and dispose of the same by way of a common order.

3.The case of the petitioner is that the petitioner joined service on 01.10.2013 as Municipal Commissioner Grade II in Kulithalai



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Municipality. Thereafter, the petitioner joined in the service of Valparai Municipality on 03.01.2020 as Commissioner. Due to his health issues, he was on medical leave from 23.03.2021 with the permission of the second respondent. While so, the fifth respondent conducted an inspection on 30.03.2021 and lodged a criminal complaint with the District Crime Branch, Coimbatore on 10.04.2021, in Crime No.14 of 2021 as against the petitioner, for the offences punishable under Sections 13(1) (C), 13(1) (d) (I), 13(1) (d) (ii), 13(1) (d) (iii) and 13(1) (e) of Prevention of Corruption Act, alleging that the petitioner had split up single civil work into 41 works has issued work orders and misappropriated the Government funds.

4.The learned counsel appearing for the petitioner submits that by proceedings dated 15.04.2021, the District Election Officer and the District Collector, Coimbatore received a report from the Regional Director of Municipal Administration, Tiruppur, Regional Joint Director of Local Fund Audit and Deputy Director of Forests, Anaimalai Tiger Reserve, Pollachi that certain irregularities were committed by the petitioner, in violation of the Model Code of Conduct. Accordingly, the District Election



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Officer and the District Collector, Coimbatore by proceedings dated 15.04.2021 relieved the petitioner from the post of Municipal Commissioner, Valparai and posted the Municipal Commissioner, Pollachi as additional charge of Municipal Commissioner, Valparai. By order, dated 11.05.2021, the Commissioner, Puliyanakudi Municipality served the order of suspension passed by the Commissioner of Municipal Administration, Chennai to the petitioner.

5.The learned counsel further submits that the petitioner is working as a Municipal Commissioner and the District Collector is not the competent authority to pass the order of relieving as against the petitioner and the petitioner was relieved from service by proceedings dated 04.05.2021, without providing an opportunity and without any notice. The Commissioner of Municipal Administration has ratified the order of District Election Officer, Coimbatore, relieving the petitioner from the post of Municipal Commissioner, vide reference fourth cited, whereas, no reference has been cited in the order dated, 04.05.2021. According to the learned counsel for the petitioner, the Commissioner of Municipal Administration,



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Chennai has passed the said order in a mechanical manner, suspending the petitioner and also ratifying the order of the District Collector, Coimbatore relieving the petitioner from the post of Municipal Commissioner, Valparai. He further submits that when the petitioner was already relieved by the order dated 15.04.2021, the question of further suspension of the petitioner does not arise.

6.The learned counsel has also relied on the orders of this Court in W.P(MD) No. 7527 of 2021, where, a similar order has been passed as against one M.Muthukumar, which was challenged in that writ petition and before the Division Bench, Election Commission has made a categorical statement that the order of temporary suspension issued by the Election Officer is recommended for revocation with immediate effect and by recording the said statement, that writ petition was disposed of. The orders impugned in the aforesaid writ petition is also squarely applicable to the present case also. The Election Officer/the third respondent is not having any jurisdiction to pass such an order, relieving the petitioner from his post and therefore, this order is liable to be set aside.



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7.Mr.J.Ashok, learned Additional Government Pleader submits that this Court is not having any jurisdiction to entertain this writ petition. According to the learned Additional Government Pleader, the petitioner who was working as Municipal Commissioner, Valparai was placed under suspension and he was also relieved by the Election Commissioner and these orders can be challenged only before the Principal Seat of this Court and this Court is not having jurisdiction to entertain these writ petitions. However, by referring the proceedings of Puliyankudi Municipality, these writ petitions were entertained by this Court. He has also raised preliminary objections for maintaining the writ petitions before this Bench.

8.This Court paid its anxious consideration to the rival submissions made and also perused the materials placed on record.

9.The petitioner, who was working as the Municipal Commissioner, Valparai Municipality was relieved by the District Collector, Coimbatore, by order dated 15.04.2021 and the same was ratified by the Commissioner of Municipal Administration, by order dated 04.05.2021.



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While the petitioner was serving at Valapari, certain irregularities were noticed by the Team, which was formed to look into works done in violation of Model Code of Conduct. The team consist of the Regional Director of Municipal Administration, Tiruppur, Regional Joint Director of Local Fund Audit and Deputy Director of Forests, Anaimalai Tiger Reserve, Pollachi conducted a joint inspection, on the works which were executed by the petitioner, after the issuance of election notification and found major irregularities/illegalties, such as misappropriation of amount of the local fund to the tune of Rs.15 Crores, recommended for registering a criminal case as against the petitioner and also submitted a report to the Election Officer. Since certain grave charges have been contemplated as against the petitioner, during the Code of Conduct, the Election Officer, who is incharge of the election affairs of the District, has relieved the petitioner from the post of the Municipal Commissioner, Valparai and posted the Municipal Commissioner, Pollachi as additional charges to the post of Municipal Commissioner, Valparai. That order is under challenge in this writ petition on the ground that the Election Officer and the District Collector is not the competent authority to pass such an order.



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10.As rightly pointed out by the learned Additional Government Pleader that these writ petitions ought to have been filed before the Principal Seat of this Court, however without jurisdiction, this Court entertained the same, based on the proceedings of the Commissioner of Puliayangudi, which is only reference about the serving of the orders passed by the Municipal Administration and this Court has also granted an order of interim stay.

11 The offence has been committed by the petitioner, during the Model Code of Conduct was in force and a report was also submitted to the Election Commissioner, and the Election Officer, who is the competent authority to take decision for the smooth administration of the Valparai Municipality, relieved the petitioner from the post of Municipal Commissioner, Valparai and posted as Commissioner of another place and also posted as additional full incharge of Valparai. Hence, this Court finds no illegality or irregularity in the order, dated 15.04.2021.

12.The second order which is impugned herein is the order of



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the Commissioner of Municipal Administration, Chennai, dated 04.05.2021.

The petitioner, who was working as Municipal Commissioner, Valparai commenced some civil works from the local body funds to the tune of Rs.15 crores, after announcement of elections and also made payments to the contractors in Valparai Municipality. This was detected by the Committee, which was constituted by the Election Commissioner, to check the Code of Conduct. By the order, dated 04.05.2021, the Commissioner of Municipal Administration, Chennai placed the petitioner under suspension under Section 17 (b) of Tamil Nadu Civil Services (Discipline and Appeal) Rules and pending charges, the Commissioner of Municipal Administration has ratified the order of District Election Officer, Coimbatore, relieving the petitioner from the post of Municipal Commissioner, Valparai. The Commissioner of Municipal Administration has passed this order, based on the report submitted by the Committee, which was formed for finding out in violation of the Model Code of Conduct and the criminal case registered as against the petitioner in Crime No.14 of 2021, dated 10.04.2021, for the offences punishable under Sections under Sections 13(1) (C), 13(1) (d) (I), 13(1) (d) (ii), 13(1) (d) (iii) and 13(1) (e) of Prevention of Corruption Act.



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13.The third order impugned herein is the proceedings of the Puliangudi Municipal Commissioner, dated 11.05.2021 in Na.Ka.1165 of 2021/C1. By this proceedings, the Commissioner, Puliangudi Municipality informed the Commissioner of Municipal Administration and the Joint Director of Municipal Administration, Tiruppur and the Joint Director of Municipal Administration, Tirunelveli about the steps, which were taken pursuant to the proceedings of the Regional Municipal Administration, Tiruppur, dated 08.05.2021. The order of suspension dated 04.05.2021 passed by the Commissioner, Municipal Administration was directed to be served to the petitioner, in his residence D.No.129,130 (128, 131), Indira Nagar, Puliangudi. Accordingly, the Municipal Commissioner, Puliangudi instructed his revenue inspectors to serve the suspension order to the petitioner. When the revenue inspector attempted to serve notice, the petitioner refused to accept the same and insisted that it must be served only through the Commissioner, Puliangudi Municipality. Accordingly, he served the order of suspension and reported the same. This Court is surprised how the petitioner could leave the head quarters, pursuant to the earlier order, dated 15.04.2021 and 04.05.2021 and how the Joint Director



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of Tiruppur is passing an order to serve the order of suspension to the petitioner in his native place at Puliangudi, when there was specific condition in the proceedings, dated 04.05.2021 that “The Headquarters of the said Thiru.K.Paunraj, formerly Municipal Commissioner, Valparai Municipality during the period of suspension shall be Valparai Municipality and petitioner, formerly Municipal Commissioner, Valparai Municipality shall not leave the Headquarters without obtaining the prior permission of the authorities concerned.” The proceedings, dated 11.05.2021 is nothing but an order of communication, which has been complied by the Commissioner, Puniangudi Municipality. This petitioner may have not any grievance as against this order.

14.Perusal of the records reveals that the petitioner, during the Model Code of Conduct is said to have commenced certain civil works from the local body funds and disbursed Rs.15 Crores of amount to the contractors. A criminal case has also been registered in Crime No.14 of 2021, on the file of the District Crime Branch, Coimbatore, for the offences punishable under Sections 13(1) (C), 13(1) (d) (I), 13(1) (d) (ii), 13(1) (d)



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(iii) and 13(1) (e) of Prevention of Corruption Act. Pending the criminal case, the petitioner was also placed under suspension, by order dated 04.05.2021. The earlier order of relieving the petitioner from Municipal Corporation is only for smooth administration of Municipality at Valparai and therefore there is no reason to interfere with the order and accordingly these writ petitions are liable to be dismissed.

15.It is reported that a criminal case was also registered by the District Crime Branch, Coimbatore in Crime No.14 of 2021 on 10.04.2021 and the same has been transferred to the Vigilance and Anti Corruption, Coimbatore. Considering the gravity of the offence involved, this Court directs the Director of Vigilance and Anti Corruption, to entrust the investigation to an Officer holding of the rank of Deputy Superintendent of Police with a direction to file a final report as expeditiously as possible and shall monitor the investigation in Crime No.14 of 2021.

16.The learned Counsel for the petitioner has alleged that payment of subsistence allowance has not been paid to the petitioner. If the



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petitioner is not paid the subsistence allowance, the authority concerned shall ensure that the petitioner gets subsistence allowance for the relevant period. It is needless to state that the department is also expected to proceed with the departmental proceedings simultaneously, since it is settled position of law the pending criminal case is not a bar to proceed with the departmental proceedings.

17. These writ petitions are dismissed with the above directions.

No costs. Consequently, connected connected Miscellaneous Petitions are closed.

12.01.2022

Index : Yes / No.

Internet: Yes / No.

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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

Note: Issue order copy by 20.12.2022.



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To

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Common Order made in
W.P(MD)Nos.9542 & 9565 of 2021 and
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