



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD)No.11531 of 2022

and

W.M.P. (MD)Nos.8167, 8168 and 8169 of 2022

WEB COPY

A.G.Sharmilaji

... Petitioner

Vs.

1.The State of Tamilnadu,
Represented by Secretary to Government,
Rural Development and Local Administration Department,
Fort St.George, Chennai - 600 009.

2.The Inspector of Panchayat/
The District Collector,
Madurai District,
Madurai.

... 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 in order Na.Ka.No.அ4/2இ(உ)664/2020 dated 25.05.2022 on the file of the 2nd respondent and notified as Tamil Nadu Official Gazette notification No.313 dated 31.05.2022 issued under Section 205(11) of the Tamil Nadu Panchayats Act, 1994 and quash the same as illegal, incompetent and against the settled principles of law and unconstitutional.

For Petitioner : Mr.S.Ramesh
For V.Raghavachari

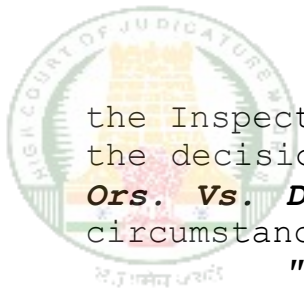
For Respondents : Mr.Veerakathiravan,
Additional Advocate General,
Assisted by Mr.K.Balasubramani,
Special Government Pleader.

ORDER

Heard the learned counsel for the writ petitioner and the learned Additional Advocate General for the respondents.

2.The writ petitioner was directly elected as President of Kottaimedu Village Panchayat in the local body election held in the year 2020. By the impugned order, the writ petitioner was removed from the said post. Questioning the same, the present writ petition has been filed.

3.In this case, the majority of members of the panchayat voted in favour of the writ petitioner and against the action proposed by
<https://hcservices.ecourts.gov.in/hcservices/>



the Inspector of Panchayat. The Hon'ble Full Bench of this Court in the decision reported in **2009 4 CTC 609 (The District Collector and Ors. Vs. Devi Parasuraman and Ors.)** set out the procedure in such circumstances. Paragraph 17 of the said decision is as follows:-

"17. In the light of the discussions made above, we summarise our views as follows:

- i) An act of the Inspector Under Section 205 is quasi-judicial in nature;
- ii) If the Inspector is satisfied with the explanation submitted by the President Under Section 205, he is required to record his satisfaction for dropping the proceeding; and
- iii) If the Inspector differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President intimating the reasons for difference and can issue notification only on consideration of cause, if any, shown by the President."

4. In the case on hand, the meeting was convened on 22.04.2022. Since the Inspector of Panchayat differed with the views expressed by the majority of the members, as contemplated by the aforesaid judgment, the Inspector of Panchayat did issue a notice dated 09.05.2022 setting out the reasons as to why he was differing from the views expressed by the village panchayat. Thereafter, the petitioner also gave her explanation on 12.05.2022. The learned Additional Advocate General would add that even a personal enquiry was held. Though there is considerable force in the contentions of the learned Additional Advocate General that the order is appealable, since there is no factual dispute, I have decided to entertain the writ petition and grant relief. The only question that I have taken up for consideration is whether the Inspector of Panchayat referred to the explanation given by the petitioner dated 12.05.2022. There cannot be any dispute that this explanation given by the writ petitioner has not been referred to at all by the Inspector of Panchayat. It is a well settled principle of administrative law that all the relevant materials must be taken into account before passing the final order. In this case, there is no reference to the notice dated 09.05.2022 nor the explanation given by the writ petitioner on 12.05.2022. Failure to advert to the explanation given by the petitioner on 12.05.2022 does amount to a procedural infirmity. On this ground, I set aside the impugned order and the matter is remitted back to the file of the second respondent to pass orders afresh. There is no need to issue fresh notice to the petitioner herein. It is enough if the Inspector of Panchayat passes a fresh order after taking into account all the



materials on record. I make it clear that I have not gone into the merits of the matter. All the contentions of the writ petitioner are left open.

5.I need to necessarily add a postscript. As rightly pointed out by the learned Additional Advocate General, the affidavit filed by the writ petitioner does suffer from suppression of material facts. There is no reference whatsoever to the notice dated 09.05.2022 issued by the Inspector of Panchayat nor the explanation given by the writ petitioner. While I would totally absolve the learned counsel, I censure the writ petitioner for her conduct in having suppressed the material facts. In fact, this suppression is sufficient for me to even non-suit the petitioner as granting relief in writ proceedings is a discretionary remedy. Any person who approaches the Court with unclean hands has to be thrown out at the threshold. However, in view of the reasons already set out, I quash the impugned order and allow the writ petition.

6.The writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/06/2022

Sub Assistant Registrar(CS)

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To:-

1.The Secretary to Government,
Rural Development and Local Administration Department,
Fort St.George, Chennai - 600 009.

2.The Inspector of Panchayat/
The District Collector,
Madurai District, Madurai.

+1 CC to M/s.V. RAGHAVACHARI, Advocate (SR-25657[F] dated 14/06/2022)

+1 CC to M/s.SPL.GP (SR-26124[F] dated 16/06/2022)

W.P (MD) No.11531 of 2022

14.06.2022

RD(28.06.2022) 3P 5C