



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
RESERVED ON : 17.12.2021
PRONOUNCED ON : 06.01.2022
CORAM

THE HONOURABLE MR.JUSTICE **C.V.KARTHIKEYAN**

W.P.(MD)No.17492 of 2021

and

W.M.P.(MD)No.14349 of 2021

WEB COPY

K.Lakshmi Kailasam

... Petitioner

vs.

1.The District Collector/Inspector of Panchayats,
District Collector's Office Campus,
Pudukottai District.

2.The Assistant Director of Panchayat,
Pudukottai District.

3.The Tahsildar,
Thirumayam Taluk, Pudukottai District.

4.The Block Development Officer,
Arimalam Block,
Thirumayam Taluk, Pudukottai District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings in Na.Ka.No.2990/2020/A3(Oo), dated 26.07.2021, quash the same as illegal and consequently, to direct the first respondent to permit the petitioner alone to sign the cheque temporarily pending consideration to change the cheque signing power permanently by considering the petitioner's representation, dated 16.06.2021.

For Petitioner : Mr.K.Baalasundaram

For R1 to R3 : Mr.N.Satheesh Kumar

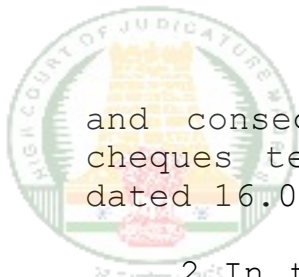
Additional Government Pleader

For R4 : Mr.A.K.Manickkam

Special Government Pleader

O R D E R

This Writ Petition has been filed in the nature of Certiorarified Mandamus seeking interference with the order of the first respondent/District Collector/Inspector of Panchayats, Pudukottai District, dated 26.07.2021 and to set aside the same



and consequently, to direct the petitioner alone to sign the cheques temporarily pending consideration of the representation, dated 16.06.2021.

2. In the affidavit filed in support of the Writ Petition, the petitioner/President, Vaalaramanickam Village Panchayat, Arimalam Block, Thirumayam Taluk, Pudukottai District, stated that she had contested successfully in the elections for the post of President in the year 2019. The Panchayat consists of 9 wards and one K.M.Udaiyappan, who had been selected as Ward Member from the 6th ward, was elected as Vice President. It was stated that K.M.Udaiyappan, refused to sign the cheques. This was questioned by other ward members. It was stated that the ward member of the 3rd ward, P.Lakshmi and the Vice President, K.M.Udaiyappan, had indulged in wordy quarrels relating to the implementation of schemes during the Gramasabha meeting. It was stated that this led to the registration of a FIR in Cr.No.236 of 2020 by K.Pudupatti Police Station against K.M.Udaiyappan and others. There were further altercations. It was also stated that K.M.Udaiyappan was incarcerated in prison also.

3. There was a special Gramasabha meeting held on 19.08.2020 and a resolution was passed to change the cheque signing power from K.M.Udaiyappan to another ward member. The said resolution was forwarded to the first respondent/District Collector/Inspector of Panchayat. However, the first respondent stated that a fresh meeting should be convened and a resolution should be passed giving the name of the ward member to whom the cheque signing power should be given. The Gramasabha meeting was therefore proposed to be held on 18.09.2020. It was deferred for various reasons and finally, held on 09.11.2020 and the cheque signing power was transferred from K.M.Udaiyappan to P.Lakshmi.

4. In the meanwhile, the first respondent issued a proceedings dated 09.06.2021 intimating the petitioner to expedite the panchayat related activities within seven days by signing the cheques. The petitioner gave a reply on 16.06.2021 that any one of the other ward members may be permitted to sign the cheques along with her. However, the impugned order was then passed suspending the cheque signing power of the petitioner. Questioning that impugned order, the present Writ Petition had been filed.

5. It is stated that notice was not given to the petitioner before suspending her right to sign the cheques. Opportunity was not granted to her. It was therefore stated that the impugned order should be interfered with.

6. It is significant to point out that K.M.Udaiyappan, against



whom allegations were made, had not been impleaded as party to the Writ Petition.

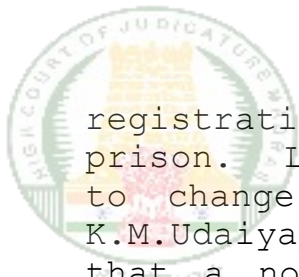
7.The respondents have filed a counter affidavit, wherein, it had been stated that there were allegations made by the petitioner/President and by the Vice President against each other complaining non-cooperation. This affected the smooth functioning of the Village Panchayat. They both refused to sign the cheques towards the expenditures incurred in the Panchayat. Therefore, the salary of the Panchayat Secretary, Sanitary Workers, Over Head Tank Operators remained unpaid from July 2020. Further, other expenditures, like electricity charges and water tank charges of the Panchayat were not paid for more than one year.

8.It had been stated that the first respondent had issued a notice on 09.06.2021 under Section 204(1) of the Tamil Nadu Panchayats Act, 1994, calling upon both the President and the Vice President to sign the cheques towards the expenditure. The Panchayat Secretary had prepared the cheques and payment advises to be signed jointly by the President and the Vice President. The petitioner refused to sign the cheques. The Vice President signed the cheques.

9.The Writ Petitioner had given a reply to the notice making allegations against the Vice President. The request of the petitioner to permit her alone to sign the cheques is not feasible for consideration. The resolution was not supported by majority of the ward members. In order to ensure the smooth functioning of the Panchayat, the cheque signing power of the petitioner was therefore, temporarily withdrawn by invoking Section 203 of the Tamil Nadu Panchayat Act, 1994. The fourth respondent/Block Development Officer was directed to sign the cheques along with the Vice President until further orders. It had been stated that before passing the impugned order, the petitioner was put on notice and she also replied. The explanation was also considered. It was claimed that there was no violation of principles of natural justice. The cheque signing power was suspended only as a temporary arrangement and it was therefore stated that the Writ Petition should be dismissed.

10.Heard arguments advanced by Mr.K.Baalasundharan, learned Counsel for the petitioner, Mr.N.Satheesh Kumar, learned Additional Government Pleader appearing for Respondents 1 to 3 and Mr.A.K.Manikkam, learned Counsel for the fourth respondents.

11.The learned Counsel for the petitioner took the Court through the facts of the case and raised allegations against the conduct of the Vice President, K.M.Udaiyappan and stated that he indulged in creating commotion among the members, which led to the



registration of a FIR against him and he was also detained in prison. Learned Counsel stated that a resolution had been passed to change the cheque signing power from the Vice President, K.M.Udaiyappan to P.Lakshmi, Member of the 3rd ward. He stated that a notice had been issued to the petitioner on 09.06.2021 directing her to sign the cheques along with K.M.Udaiyappan. However, a reply was given by the petitioner. But, quite abruptly, the cheque signing power of the petitioner was withdrawn by the respondents. The learned Counsel assailed the impugned order claiming that it had been passed in violation of principles of natural justice.

12.The learned Counsel relied on a judgment of this Court reported in **(2005) 1 MLJ 520**, in the case of the **President, Kandipedu Panchayat, Katpadi Panchayat Union, Vellor District, vs.M.Kothanda Reddy, The District Collector, Vellor District and others**, wherein, the Division Bench of this Court had observed in a case where violation of principles of natural justice was evident since the District Collector had not denied the specific allegation that enquiry was not conducted and had therefore, interfered with the order of the District Collect and had remanded the matter back to the District Collector to pass fresh orders after giving opportunity to the petitioner therein.

13.The learned Counsel also relied on a judgment of this Court in **W.A. (MD)No.579 of 2010** in the case of **C.Ashokkumar, vs The District Collector/Inspector of Panchayats, Dindigul and others**, wherein, a Division Bench of this Court had held as follows:

"8.The idea behind the issuance of notice in any proceeding is to put on notice as to what are imputations against the person concerned. The first respondent, who is discharging a statutory power vested in him under Section 203 of the Act, is bound to act in a reasonable manner expected of from a statutory power, especially while dealing with a right of an elected representative of a local body. Issuing a notice need not be treated as a mere ritual or an empty formality. By the impugned order, the first respondent has taken away a statutory power conferred under Section 188(3) of the Act, which reads as follows;-

"Subject to such general control as the village panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund shall be signed jointly by the President and Vice-President and in the absence of the President or Vice-president, as the case may be, by the Vice-president or the President and another member authorized by the Village Panchayat at a meeting in this behalf."



9. A Division Bench of this Court in the case of Pugazhendran, President, Brammapuram Village Panchayat, Katpadi Panchayat Union, Katpadi Taluk, Vellore District vs. B.G.Balu and others reported in 2005 (1) LW 506 : 2005 (1) CTC 545 considered the importance of issuing notice and held that before taking any action against the Vice - President of Village Panchayat either under Section 203 or under Section 206 of the Act, person concerned should be given a notice, as any adverse order passed either under Section 203 or under Section 206 of the Act will have a civil consequence divesting the statutory powers."

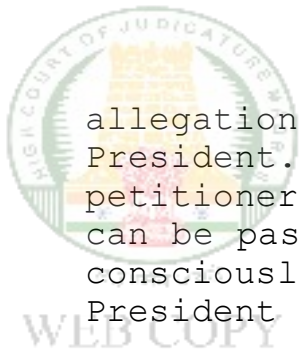
Placing strong reliance on the aforesaid observations, the learned Counsel stated that the Writ Petition should be allowed.

14.Mr.N.Satheesh Kumar, learned Additional Government Pleader however supported the impugned order stating that there were allegations and counter allegations raised between the petitioner and the Vice President and all the activities of the Panchayat had come to a stand still. It was contended by the learned Additional Government Pleader that the cheques were placed before the petitioner herein for her signature but she had refused to sign the same. However, the Vice President had signed the cheques. Left with no other alternative, since salaries were due and payable from July 2020 and electricity charges were also not paid for more one year, the first respondent, following due process and after examining the reply given by the petitioner to the notice issued, had withdrawn the cheque signing power of the petitioner temporarily and had allotted the said power to the fourth respondent/Block Development Officer. It was therefore, stated that there was no violation of principles of natural justice.

15.I have given careful consideration to the arguments advanced and the perused documents available on record.

16.This is a case, in which both the petitioner/President and the Vice President have let down the confidence and trust reposed in them by the people, who elected them. The petitioner herein was elected as a President. The Vice President was elected by the ward members. They both have a duty to the public. They however took it upon themselves to engage in personal quarrels raising allegations which not only were childish in nature but also demeaned their status as President and Vice President respectively.

17.This Court will necessarily have to express in very strong words its frustration at the object of the Panchayat system being defeated by this act of levelling allegations and counter

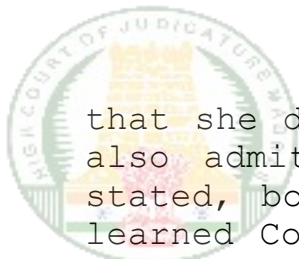


allegations against each other by the petitioner and the Vice President. This should not have happened. It had happened. The petitioner will have to face necessary consequences. No orders can be passed against the Vice President, since the petitioner had consciously for reasons best known her not impleaded the said Vice President as a party to the Writ Petition.

18.It is seen that notice had been issued to the petitioner on 09.06.2021 by the first respondent/District Collector/Inspector of Panchayat. In the said notice, the first respondent had drawn attention to earlier notices, dated 25.03.2021 and 18.05.2021. The copies of those notices have not been filed by the petitioner herein. The gist of those notices have been re-produced in the notice dated 09.06.2021. It had been stated that from July 2020, the salary to Village Panchayat staff and workers had not been paid. Electricity charges had been not paid. Water tank charges had not been paid. These were not paid because the President and the Vice President had not jointly come forward to sign the cheques towards such expenditures. It had also been stated that therefore, the entire activities of the Panchayat had come to a stand still. It was therefore stated that within seven days, the salaries and the water charges and the electricity charges should be paid by signing the cheques.

19.The petitioner should have realised that the first respondent was calling upon her to discharge official duty. If the petitioner did not comply or expressed reluctance to comply with the same, then the petitioner loses her right to continue as the President. The cheques were placed in front of the petitioner. She refused to sign them. The Vice President alone signed the cheques. The petitioner had therefore deliberately failed to discharge the official duty expected of her. I wonder whether the petitioner would survive for more than one year without receiving any remuneration or salary, if she had been in employment. The petitioner had simply no thought for the plight of those employees, who had not been paid salary only because of her personal vengeance or altercations against the Vice President.

20.The judgments referred by the learned Counsel for the petitioner reiterated that the principles of natural justice should be followed. In this case, the President had been issued with specific notice dated 09.06.2021 with specific reference to Section 204 of the Tamil Nadu Panchayats Act, 1994. The petitioner should have realised and should have voluntarily come forward to sign the cheques. On the other hand, she sent a reply raising allegations against the Vice President. She can very well file a separate complaint against the Vice President but should have ensured that her personal vendetta did not interfere with discharge of her official work. The allegations against her is



that she did not sign the cheques. This has been established and also admitted by her. She has to face the consequences. As stated, both the judgments of the Division Bench referred by the learned Counsel for the petitioner only envisage the following of principles of natural justice. In this case, it was followed. Notice was issued. Opportunity was granted. The opportunity was not taken. The petitioner did not come forward to sign the cheques. The cheque signing power had therefore been withdrawn.

21.I find no fault in the impugned order. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

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/ /2022

Sub Assistant Registrar (CS)

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To

- 1.The District Collector/Inspector of Panchayats,
District Collector's Office Campus,
Pudukottai District.
- 2.The Assistant Director of Panchayat,
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