



W.A.(MD)No.923 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.08.2022

CORAM

THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
and
THE HONOURABLE MRS.JUSTICE **S.SRIMATHY**

W.A(MD)No.923 of 2022
and
C.M.P.(MD)Nos.7698 of 2022

Sathiya

... Appellant

Vs.

1.The District Collector,
Tuticorin,
Tuticorin District.

2.R.Arunkumar

3.A.Michael Navamani

... Respondents

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent, to set aside the order passed by this Court in W.P.(MD)No.16395 of 2022, dated 27.07.2022.

For Appellant

:Mr.T.Lajapathi Roy,
for Ms.T.Logaiasamy

For 1st Respondent

:Mr.Veera Kathiravan,
Additional Advocate General,
for Mr.S.P.Maharajan,
Special Government Pleader

* * *



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JUDGMENT

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(Judgment of the Court was delivered by **S.S.SUNDAR, J.**)

This Writ Appeal is directed against the order of learned Single Judge dated 27.07.2022 made in W.P.(MD) No.16395 of 2022.

2. Heard Mr.T.Lajapathi Roy, learned counsel for the appellant and Mr.Veera Kathiravan, learned Additional Government Pleader, assisted by Mr.S.P.Maharajan, learned Special Government Pleader, appearing for the first respondent. By consent of both sides, this Writ Appeal is taken up for final disposal at the admission stage itself.

3. The petitioner was elected as the member of the fifth ward of Thoothukudi District Panchayat in the local body election held in the year 2020. The petitioner contested for the post of District Chairman and was duly elected and took oath on 11.01.2020 and it is not disputed that the District Panchayat consists of 17 members. Respondents 2 and 3, who are also elected members, sent a requisition with the signatures of 13 more members to the first respondent stating that they have lost



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confidence against the appellant and that they wanted to remove the appellant from the post of District Chairman. Based on the requests of respondents 2 and 3, the first respondent called upon the appellant to show cause why a meeting for 'No Confidence Motion' shall not be convened. The said notice was dated 05.04.2022 and the appellant sent a reply on 08.04.2022. Thereafter, the first respondent issued a notice dated 19.04.2022, for convening a meeting on 12.05.2022 at 11.00 A.M. The said notice was challenged before this Court by filing a writ petition in W.P.(MD)No.8526 of 2022 and this Court while admitting the writ petition granted interim order on 11.05.2022 by permitting the first respondent to conduct a meeting, but not to pass final order pending disposal of the writ petition. It is admitted by the appellant that the meeting was convened on 12.05.2022 and 14 members voted in favour of the 'No Confidence Motion'. However, the Writ Petition filed by the appellant in W.P.(MD) No.8526 of 2022 was allowed on 13.06.2022 on the ground that copy of the requisition of respondents 2 and 3 to the first respondent was not served on the petitioner in terms of Section 212 (2) r/w Section 213 of the Tamil Nadu Panchayats Act, 1994. While allowing the writ petition, learned Single Judge further observed that the outcome of the writ



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petition will not be an impediment for the members from taking fresh steps under Section 212(2) r/w 213 of Tamil Nadu Panchayat Act, 1994. Thereafter, a fresh requisition was submitted by respondents 2 and 3 stating that 13 other members are interested in moving 'No Confidence Motion' against the appellant. Based on that, the first respondent issued the show cause notice dated 19.07.2002. The said show cause notice was challenged before this Court in W.P.(MD) No.16395 of 2022. Learned Single Judge dismissed the writ petition on 27.07.2022 and the present appeal is directed against the order dated 27.07.2022 in the writ petition filed by the appellant.

4. Learned counsel appearing for the appellant referred to the provisions viz., Sections 212 and 214 of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as 'the Act'. It is his case that the proceedings initiated once again on the same cause of action are not sustainable in view of the fact this Court interpreted Section 212 (14) of the Tamil Nadu Panchayats Act, 1994 in such a way that 'No Confidence Motion' cannot be brought once again within one year after it failed on the earlier occasion.



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5. Learned counsel for the appellant also submitted that the impugned notice a clear case of abuse of process and it is vitiated on account of malice of law. It is his submission that the impugned notice contains reasons, which have no legal sanctity. Learned counsel also pointed out that out of 17 members, 12 members belong to AIADMK and only 5 members belong to DMK party. It is contended that there was no serious allegations against the appellant while acting as the President. He submitted that only due to the Ministers belonging to Ruling Party, the impugned proceedings were initiated on vague grounds to collapse the District Panchayat under the leadership of opposite party.

6. Learned counsel for the appellant also relied on the decision of a learned Single Judge of this Court in ***Seeniammal v. The State of Tamil Nadu in W.P.(MD) No.15564 of 2003 dated 14.03.2006***, which is also reported in ***(2006) 3 LW 383***, wherein it is held as follows:

“9. Further, the petitioner was elected to the office of the Chairperson of the said village panchayat on 31-10-2001 and that on 22-10-2002, within one year from of her election as the Chairperson, the No



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Confidence Motion was moved against her on the basis of the petition dated 22-10-2002 given by the local Member of Legislative Assembly. The moving of the No Confidence Motion against the elected Chairperson is against the provisions of subsections (14) and (15) of Sec. 212 of the Act. The said provisions mandate that no motion shall be received within a period of one year of assumption of office of chairman and if the motion had failed for some reason, another motion cannot be moved within a period of one year from that date. Further, I am not able to agree with the contention of the learned Government Advocate that the Revenue Divisional Officer has not acted as per the dictates of the local Member of Legislative Assembly, but acted only on the basis of the complaint dated 18.11.2002 given by the councillors of the panchayat as no record was placed before me in support of the said contention. On the other hand, the meeting was held on 18-11-2002 to verify the signatures of the councillors found on the complaint dated 22-10-2002 only as per the telephonic message.”



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7. This Court is unable to countenance the arguments of learned counsel for the appellant for the following reasons:-

7.1 The last contention of learned counsel is on the basis of the order of learned Single Judge above referred to. It is to be noted that the said order is per incuriam. It is useful to refer to Section 212 (14) of the Act for convenience.

“212 (14) If the motion is not carried by such a majority as aforesaid, or if the meeting cannot be held for want of the quorum referred to in subsection (13), no notice of any subsequent motion expressing want of confidence in the same vice-chairman shall be received until after the expiry of one year from the date of the meeting.”

Therefore, as per Section 212 (14) of the Act a subsequent 'No Confidence Motion' may not be resumed within a period of one year from the date of previous motion, if it failed on the ground that it does not carried by such majority or if the meeting cannot be held for want of quorum. The observation of learned Single Judge in the said decision that no motion shall be received within a period of one year of assumption of office of Chairman and if the motion had failed for some reason, another motion cannot be moved within a



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period of one year from that date, is contrary to the provisions and this Court cannot interpret a provision without an application of mind as to the express words or object intended in the said provision. The interpretation of learned Single Judge is quite contrary to the plain language and also the object which was thought of by the legislation. The plain language employed under Section 212 of the Act shows that the second motion within one year cannot be moved if the first meeting which was convened to move 'No Confidence Motion' failed on account of want of quorum or for want of majority. In view of the interpretation of rule by this Court, the cited judgment of learned Single Judge is overruled.

7.2 The other contention of learned counsel is that the allegations made by the appellants are not serious and only because of political motive the notice has been issued. This also cannot be countenanced. From the provisions of the Act, this Court is unable to appreciate the said contention of the learned counsel for the appellant. Section speaks about the complete procedure by which the elected President can be removed from office. Once the 'No Confidence Motion' is supported by majority of persons, there is no other provision in the Act to prevent the consequence. This Court is unable to find any statutory bar as it was contended by learned



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counsel for the appellant by referring to the other provisions of the Act. The object of the Act is very clear with regard to 'No Confidence Motion'. The counsel for the appellant cannot read ante defection laws or related principles into the statue. This Court is unable to find any reason to interfere with the order of learned Single Judge in dismissing the writ petition.

8. Accordingly, this Writ Appeal is dismissed. No costs. However, while dismissing the Writ Appeal, the learned Single Judge granted one week time to the petitioner to submit her explanation. It is now admitted that the appellant has not submitted her explanation, since the appeal is filed. In view of the same, this Court grants one week time to the appellant from today to offer her explanation to the show cause notice. No costs. Consequently, connected Miscellaneous Petition is closed.

[S.S.S.R., J.] [S.S.Y., J.]
26.08.2022

Index : Yes / No

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S.S.SUNDAR, J.

and

S.SRIMATHY, J.

sj

To

1.The District Collector,
Tuticorin,
Tuticorin District.

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