



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 10.01.2022

PRONOUNCED ON : 11.01.2022

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P. (MD)No.23288 of 2021

and

W.M.P. (MD)No.19719 of 2021

WEB COPY

M.Uma Maheswari

... Petitioner

vs.

1.State of Tamil Nadu,
represented by its
Principal Secretary to Government,
Rural Development and Panchayat Raj,
St.Fort George, Chennai - 600 009.

2.The District Collector,
Dindigul District, Dindigul.

3.The Revenue Divisional Office,
Palani, Dindigul District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, to call for the records pertaining to the impugned notice passed by the third respondent vide his proceeding in Na.Ka.No.9012/2021/A7, dated 22.12.2021 and quash the same as illegal.

For Petitioner :Mr.C.Mayilvahana Rajendran
For Respondents :Mr.Veerakathiran
Additional Additional General-III
Asst by Mr.D.GhandiRaj
Special Government Pleader

O R D E R

This Writ Petition has been filed in the nature of Certiorari to call for the records relating to the notice issued by the third respondent in proceedings, dated 28.12.2021 and to set aside the same.

2.The petitioner, M.Uma Maheswari, had been elected as Chairperson of Gujiliamparai Panchayat Union, Dindigul District in 2019. The said Panchayat Union consists of 13 Ward Members. The Councilors had presented a complaint to the second respondent/District Collector, Dindigul, who in his proceedings, dated 03.12.2021, had recommended the third respondent/Revenue



Divisional Officer, Palani, Dindigul District, to initiate proceedings under Section 212 of the Tamil Nadu Panchayats Act, 1994.

3.A show cause notice was issued by the third respondent on 04.12.2021. The petitioner filed W.P.(MD)No.22195 of 2021 and by order, dated 15.12.2021, the petitioner was permitted to peruse the documents in the office of the Panchayat in the presence of the second respondent/Revenue Divisional Officer, Palani. The petitioner then given a detailed explanation on 20.12.2021 requesting the third respondent to drop the proceedings initiated under Section 212 of Tamil Nadu Panchayats Act, 1994. The petitioner then received a representation, dated 21.12.2021 by V.Seerangan to the first and second respondents seeking to initiate proceedings to disqualify the Councilor of Ward No.9 under Section 38(3)(c) and under Section 41 of the Tamil Nadu Panchayats Act 1994.

4.The petitioner then sought to keep in abeyance the proceeding initiated under Section 212 of Tamil Nadu Panchayats Act, 1994 till the completion of the aforementioned disqualification proceedings. However, the impugned notice was issued by the third respondent on 22.12.2021 calling for a meeting to be convened on 13.01.2022 and that the agenda related to No Confidence Motion against the petitioner herein. Questioning that notice, the present Writ Petition has been filed.

5.A counter affidavit had been filed by the respondents stating that the proceedings of No Confidence Motion were issued in adherence to the rules and provisions of the Tamil Nadu Panchayats Act, 1994. It was stated that 11 Ward Members out of 13 Ward Members of the Panchayat Union Council had signed a notice proposing to move a No Confidence Motion against the petitioner and a copy of the statement of charges along with the motion had also been delivered on the petitioner, as required under Section 212 of the Act. The petitioner had submitted an explanation on 20.12.2021. However, the third respondent had decided to convene a meeting to place a No Confidence Motion for consideration on 13.01.2022 by proceedings, dated 22.12.2021. The said notice was issued under Section 212(7) of the Tamil Nadu Panchayats Act, 1994. It was stated that there was no illegality in the procedure adopted and that the Writ Petition should be dismissed and that there should a direction to convene the meeting and the agenda to be discussed.

6.Heard arguments advanced by Mr.C.Mayilvahana Rajendran, learned Counsel for the petitioner and Mr.Veerakathiravan, learned Additional Advocate General appearing for the respondents.

7.Mr.C.Mayilvahana Rajendran, learned Counsel for the petitioner primarily relied on Sub Section 2 of Section 212 of the Tamil Nadu Panchayats Act, 1994 and stated that there was a failure



charges in person to the Revenue Divisional Officer by any two of the Ward Members of the Panchayat Union Council, who signed the notice.

8. Section 212(2) of the Tamil Nadu Panchayats Act, 1994, is as follows:

"212.(1)

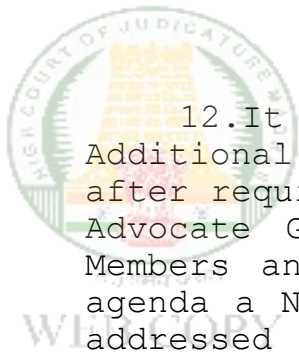
(2) Written notice of intention to make the motion, signed by members of the panchayat union council not less in number than one-half of the sanctioned strength of the panchayat union council, together with a copy of the motion which is proposed to be made and a written statement of the charges against the vice-chairman shall be delivered in person to the Revenue Divisional Officer of the division by any two of the members of the panchayat union council signing the notice.

(3)....."

9. A perusal of the records reveal that 11 Members of the Panchayat Council had issued a notice, the subject of which was to bring a No Confidence Motion against the petitioner/Chairperson of Gujiliamparai Panchayan Union. It is an admitted fact that there are totally 13 Ward Members. The first part of the aforementioned provision required that such notice shall be made and signed by atleast $3/5^{\text{th}}$ sanctioned strength. Eleven members out of thirteen ward members is certainly by any mathematical calculation more than the required three fifth.

10. It is the second portion of the aforementioned provision which is insisted as being not complied by Mr. Mayilvahana Rajendran. This stipulated that a written statement of the charges shall be delivered in person to the Revenue Divisional Officer, in this case, the third respondent, by any two of the Members of the Panchayat Union Council, who signed the notice. The learned Counsel insisted that this compliance had not been done.

11. The learned Counsel for the petitioner relied on an order of the learned Single Judge of this Court in ***W.P. (MD) No. 10671 of 2010***, dated 18.11.2010 in ***Valarmathi Chidambaram vs The District Collector, Karur District and others***. However, that judgment examined Section 207 of the Tamil Nadu Panchayats Act, 1994 and the issue of grant of personal hearing prior to passing of an order. An allied issue which was also examined was whether the District Collector was the competent authority. Those issues do not arise for consideration in the present case.



12.It is the contention of Mr.Veerakathiravan, learned Additional Advocate General that the meeting had been called for after requisite procedure had been followed. The learned Additional Advocate General pointed that the notice was signed by 11 Ward Members and calling for a meeting to be convened to place as an agenda a No Confidence Motion against the petitioner. It had been addressed to the Revenue Divisional Officer at Palani in Dindigul District. It had been signed by the 11 Ward Members. It is therefore, pointed by the learned Additional Advocate General that the compliance of both the parts of Sub Section 2 of Section 212 of the Act, had been done, namely, more than 3/5th of the Members had signed the notice calling for such a meeting and it had actually directly been addressed only to the Revenue Divisional Officer and had been delivered to the Revenue Divisional Officer. It is therefore claimed that the points made out by the learned Counsel for the petitioner will have to be rejected by this Court.

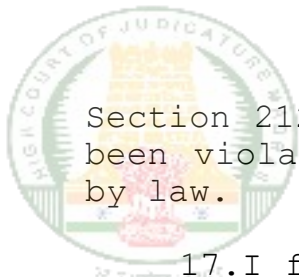
13.I have given careful consideration to the arguments advanced and perused the documents available on record.

14.The petitioner is the Chairperson of Gujiliamparai Panchayat Union. She was elected in the year 2019. There are 13 ward members of the Panchayat Union. 11 of them had taken a decision to convene a meeting to pass a No Confidence Motion against the petitioner. This had been addressed to the Revenue Divisional Officer.

15.A careful perusal of Sub Section 2 of Section 212 of the Act extracted above shows that 3/5th of the Ward Members must sign such a notice. This requirement had been complied with. It had been further stated that the statement of charges should be delivered in person by any two of said Members to the Revenue Divisional Officer. In the notice signed by 11 ward members, the necessity to pass such a No Confidence Motion and the charges against the petitioner had been reduced in the form of statement. This notice had been addressed only to the Revenue Divisional Officer. Therefore, it had been delivered to the Revenue Divisional Officer as compliance under Sub Section 2 of Section 212 of the Act. A copy of this notice had been forwarded to the District Collector, Dindigul. The District Collector had in turn forwarded the same to the Revenue Divisional Officer.

16.In the notice impugned, the heading itself is with respect to the notice given by the Ward Members calling for a meeting to pass a No Confidence Motion against the petitioner. In the reference, the letter of the District Collector is referred. The second reference is the notice signed by 11 Ward Members. It is thus seen that the notice had been signed by 11 Ward Members and addressed only to the Revenue Divisional Officer primarily.

<https://hccourtservice.in/home.html> at very act, the provisions under Sub Section 2 of



Section 212 of the Act stands complied with. The procedure has not been violated. It is in accordance with the procedure established by law.

17.I find no reason to interfere with the impugned notice. Let the meeting proceed on 13.01.2022 at 11.00 am, as it is scheduled. The Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

cmr

To

1.The Principal Secretary to Government,
State of Tamil Nadu,
Rural Development and Panchayat Raj,
St.Fort George, Chennai - 600 009.

2.The District Collector,
Dindigul District, Dindigul.

3.The Revenue Divisional Office,
Palani, Dindigul District.

+1 CC to M/s.C.MAYILVAHANA RAJENDRAN, Advocate (SR-1424[F]
dated 12/01/2022)

+1 CC to M/s.SPL.GP (SR-1522[F] dated 12/01/2022)

Order made in
W.P. (MD) No.23288 of 2021
11.01.2022

NSN (CO)
GC (28.01.2022) 5P 6C