BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.07.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.1382 of 2017
and
W.M.P.(MD)No.1137 of 2017

P.Rajamani ... Petitioner

Vs.

1.The District Collector / Inspector of Panchayat,
O/o. the District Collector,
Kanyakumari District.

2.Sarojini ... Respondents
(R2 is impleaded vide order dated 04.09.2020
in W.M.P.(MD)No.8823 of 2020)

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.E6/15040/2016, dated 27.12.2016 on the file of the respondent and quash the same as illegal and consequently, direct the respondent to conduct fresh enquiry against the misappropriation of panchayat funds to the tune of Rs.3,02842/- (Three Laksh Two Thousand and Forty Two) within the time period stipulated by this Court.

For Petitioner : Mr.T.Lajapathi Roy

For R1 : Mr.G.Sivaraja
Government Advocate

For R2 : Mr.S.C.Herold Singh

ORDER

Heard the learned counsel on either side.

2. The petitioner is a resident of Kattimancode Village. The second respondent was the President of the Village Panchayat. The case on hand pertains to events that took place during 2011-2012. During the relevant time, the husband of the second respondent was the vice president. Their daughter Mary Udhayam was the panchayat secretary. The petitioner made allegations that several financial irregularities were committed. It is seen that there was also an audit objection. Based on the audit objection, notice dated 10.04.2013 was issued by the Assistant Director of Rural Development (Audit). The stand of the petitioner is that the audit objections were never enquired into. Hence, he filed W.P.(MD)No.17752 of 2016. By order dated 19.09.2016, the writ petition was dismissed by recording the submission

of the learned Government Advocate that enquiry was held by the Zonal Officer and the report was submitted to the District Collector and that the same was considered by the District Collector. Later, the District Collector passed the impugned order dated 27.12.2016 dropping further action. Challenging the same, the Writ Petition has been filed.

3. The learned counsel appearing for the second respondent submitted that the District Collector who is also the Inspector of Panchayats had satisfied himself that there was no commission of any irregularities and since this finding is purely factual in nature, this Court may not interfere with the said finding. He also alleged that the petitioner has a running feud with the second respondent's family and that is the reason to launch successive writ petitions. The first respondent has also filed a detailed counter affidavit in which the stand set out in the impugned order has been reiterated.

4. The learned Government Advocate submitted that no case for interference has been made out.

5. I carefully considered the rival contentions and went through the materials on record. It is beyond dispute that there was an audit objection. If an Audit flagged an issue, it has to be dealt with in the manner set out in the Tamil Nadu Panchayat (Issue and Disposal of Audit Report) Rules, 2000. The audit report must be placed before the grama sabha. It is not known as to whether this requirement was complied with. Rule 8 of Tamil Nadu Panchayat (Issue and Disposal of Audit Report) Rules, 2000 reads as follows:-

> "8.Action on Audit Objections:- 1. The Executive Authority shall take prompt and effective action to set right the objections raised in the Audit Report. He shall prepare suitable replies to the objections and place the report along with his replies before the Village Panchayat and Grama Sabha for their approval. He shall submit three copies of the replies with a copy of resolution to the Assistant Director of Rural Development (Audit), through the Auditor within two months of the date of receipt of the Audit Report. The Auditor shall submit two copies of the replies of the Executive Authority after verifying the correctness of the replies, with his remarks to the Assistant Director of Rural Development (Audit) within thirty days from the date of receipt of the replies.
>
> 2. The Assistant Director of Rural Development (Audit) shall scrutinize the replies to the Audit objections, keeping in view the remarks of the Auditor and pass suitable orders accepting or rejecting the replies to objections raised. He shall also send a copy of such orders to the Auditor.
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> 3. Thereupon, it is the responsibility of the Assistant Director of

> Rural Development (Audit), to pursue further action on the pending Audit objection, if any and initiate surcharge proceedings against the Executive authority and any other person responsible in respect of Audit objections for which the Executive Authority has not submitted acceptable replies. Initiating such proceeding shall not be delayed beyond three months from the issue of final order on the replies.
>
> 4. After the issue of an Audit Report on the accounts of a Village Panchayat, the Audit of the accounts of the Village Panchayat shall not be re-opened, save with special orders of the Inspector."

6. It is not known if the second respondent even submitted her response to the query raised by the Assistant Director of Rural Development (Audit). The petitioner's counsel placed before me quite a few communications received from the said authority indicating that on account of such non-cooperation on the part of the second respondent, the issue could not be finalized. It had been specifically stated that the second respondent had adopted an attitude of non-co-operation and she did not furnish the relevant records. It is not known as to how the District Collector came to the conclusion that there was nothing amiss. The District Collector has sought to close the issue by using 'general expressions'. The Rule contemplates that the issue raised by the Audit should be scrutinized in the light of the objection as well as the relevant records. Such exercise was not undertaken in the instant case.

7. Therefore, the impugned order is quashed. The matter is remitted to the file of the first respondent to hold an enquiry as contemplated by the aforesaid statutory Rules. The second respondent will be put on notice and her reply shall be considered. Thereafter in the light of the relevant record, appropriate action will be taken. The entire exercise shall be completed within a period of eight weeks from the date of receipt of a copy of this order. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

06.07.2022

Index : Yes / No
Internet : Yes/ No
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To

The District Collector / Inspector of Panchayat,
O/o. the District Collector,
Kanyakumari District.

G.R.SWAMINATHAN,J.

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W.P.(MD)No.1382 of 2017

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