



WEB COPY



W.P.No.3723 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.3723 of 2023
and WMP. No.3723 of 2023

D.Poornima Rangarajan

... Petitioner

Versus

1. The District Collector /
Inspector of Panchayats,
Coimbatore District, Coimbatore.
2. The Assistant Director of Rural
Development (Panchayat),
Coimbatore District.
3. The Block Development Officer (VP)
Karamadai Panchayat Union,
Mettupalayam Taluk, Coimbatore District.
4. The Thasildar
Mettupalayam,
Mettupalayam Taluk Office,
Coimbatore District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus calling for the records of 4th respondents impugned order of the 4th respondent in Na.Ka. 423/ 2023/ Aa3 dated 02.02.2023 and quash the same and consequently forbearing the



W.P.No.3723 of 2023

respondents from in any manner holding any proceedings under Section 205 of the Tamilnadu Panchayat Act 1994.

For Petitioner : Mr. R.Singaravelan
For Respondents : Mr.K.M.D.Muhilan, AGP, RR1,2 & 4
Mr.S.P.Karthik, GA R3

ORDER

This writ petition has been filed challenging the order passed by the 4th respondent, dated 02.02.2023.

2. It is the case of the petitioner that he has elected as a Panchayat President of Marudut Village Panchayat, Karamadai Panchayat Union, Mettupalayam Taluk on 06.01.2020 and from that date onwards, he is discharging his duties as President of that village. However, the second respondent has initiated action against the petitioner based on the audit objection that the petitioner has spent the funds of that panchayat by violating the Government norms and rules and also granted building permission in violation of the rules. Hence, the Tahsildar has passed the impugned order dated 02.02.2023 for the personal appearance of the petitioner. Challenging the same, the present petition is filed.



W.P.No.3723 of 2023

3. The learned Senior Counsel appearing on behalf of the petitioner submitted that the order has been passed by second respondent viz., the Assistant Director of Rural Development to initiate action under Section 205 of the Tamil Nadu Panchayat Act (hereinafter referred to as 'the Act'), as per Section 205 of the Act, the District Collector is required to verify whether an explanation received from the panchayat President is satisfactory or not. Only on forming such opinion, the District Collector can proceed further forwarding the charges against the President or Vice President to the Tahsildar for serving notice to all the members to ascertain their views as per Section 205 of the Act. Whereas in this case, no procedure whatsoever is followed, the Tahsildar has referred the communication of the Assistant Director of Rural Development and called for such meeting to ascertain the views of the members of that panchayat which is impermissible under law. Further, the said notice has not served to other members for setting their views. Hence, the learned counsel prays to set aside the order impugned.

4. The learned counsel for the respondents fairly submitted that the orders has not been passed as per the provisions of the Act and undertakes that they will follow all the procedure as contemplated under the Act and if necessary,



W.P.No.3723 of 2023

take further course of action.

WEB COPY

5. Heard the learned counsel on either side and I have perused the entire materials.

6. The impugned order has been issued by the Tahsildar referring certain communication of Assistant Director, dated 24.01.2023 and also explanation of the panchayat President dated 21.11.2022 and hearing date has been fixed on 09.02.2023 at 11.00 AM. It is relevant to note that Section 205 of the Act deals with removal of the President and the same reads as follows:

205. Removal of President.- (1) The Inspector-

a) of his own motion, or

b) on a representation in writing signed by not less than two-thirds of the sanctioned strength of the Village Panchayat containing a statement of charges against the President and presented in person to the Inspector by any two of the members of the Village Panchayat, is satisfied that the President willfully omits or refuses to carry out or disobeys any provision of this Act, or any Rule, bye-law, Regulation or lawful order made or issued under this Act or abuses any power vested in him, the Inspector shall, by notice in writing, require the President to offer within a specified



W.P.No.3723 of 2023

date, his explanation with respect to this acts of omission or commission mentioned in the notice.

Section 205(2) of the Act makes it clear that if the explanation is received within the specified date and the Inspector considers that the explanation is satisfactory, he may drop further action with respect to the notice. If no explanation is received within the specified date or if the explanation received is in his opinion not satisfactory, he shall forward to the Tahsildar of the taluk a copy of the notice referred to in sub-section (1) and the explanation of the President if received within the specified date with a proposal for the removal of the President for ascertaining the views of the Village Panchayat.

7. For initiation of the proceedings or for removal of the President or Vice President, it is for the District Collector to form an opinion either to accept the explanation or reject the explanation. In the event, the explanation is rejected, then he may forward a copy of the notice to the Tahsildar as per Section 205 of the Act along with charges framed against the President or Vice President as the case may be. Without forming an opinion or indicating whether an explanation is accepted or rejected, mere direction cannot be issued to the Tahsildar to ascertain the views. On such receipt of the notice, from the District Collector as



W.P.No.3723 of 2023

per Section 205 (2) of the Act, the Tahsildar shall then convene a meeting for consideration of the notice and explanation, if any and proposal for removal of the President of a Village Panchayat. Besides, the notice of meeting shall be served to the President and all the members of the village panchayat atleast seven days before the date of the meeting and only after complying these provisions, the meeting schedule can go on. Thereafter, the views of the members of the village panchayat can be recorded in the minutes of the meeting and the same can be forwarded to the District Collector by the Tahsildar. These are all the mandatory procedure to be followed before taking any action for removal of the President or Vice President as the case may be. In view of the foregoing discussions, the impugned order, on a perusal, does not fall within any of the procedure contemplated.

8. The 4th respondent has appeared before this Court and produced the original files. On perusal of the same, no material is available to substantiate the respondent case.

9. In such view of the matter, the impugned order dated 02.02.2023 passed by the 4th respondent is hereby set aside and it is well open to the District



W.P.No.3723 of 2023

Collector to follow proper procedure as indicated above and take further course of action as per law, if required.

10. Accordingly, the writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

14.02.2023

rli

Index : Yes/No

To

1. The District Collector /
Inspector of Panchayats,
Coimbatore District, Coimbatore.
2. The Assistant Director of Rural
Development (Panchayat),
Coimbatore District.
3. The Block Development Officer (VP)
Karamadai Panchayat Union,
Mettupalayam Taluk, Coimbatore District.
4. The Thasildar
Mettupalayam,
Mettupalayam Taluk Office,
Coimbatore District.

N. SATHISH KUMAR, J.



WEB COPY



W.P.No.3723 of 2023

rli

W.P.No.3723 of 2023

14.02.2023