



W.P. No. 6133 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.10.2023

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 6133 of 2022

and

W.M.P. Nos. 6214 of 2022 and 2068 of 2023

Durgadevi Venkatesan
Panchayat President,
Palayanur Village Panchayat,
Palayanur Village and Post,
Tiruvannamalai.

... Petitioner

-VS-

1. The Assistant Director of Panchayat,
Tiruvannamalai District,
Tiruvannamalai.
2. The Block Development Officer (Village Panchayat)
Tiruvannamalai Block,
Tiruvannamalai.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records on the file of the Second Respondent herein in Na. Ka. No. PU3/182/2022 dated 10.02.2022 issued by the Second Respondent herein and to quash the same and to direct the First Respondent herein to ensure prompt compliance of the rules in the Village Panchayat and to avoid unnecessary delay and impediment in the works to be carried out by the Petitioner Panchayat.



W.P. No. 6133 of 2022

For Petitioner : Mr. M.Ravi
For Respondents : Mr. B.Vijay,
Additional Government Pleader (for R1)
Mr. A.Edwin Prabakaran (for R2)

ORDER

Heard Mr. M.Ravi, Learned Counsel for the Petitioner and Mr. B.Vijay, Learned Additional Government Pleader for the First Respondent and A.Edwin Prabakaran, Learned Counsel for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Writ Petition challenges the Proceedings in Na. Ka. No. PU3/182/2022 dated 10.02.2022 issued by the Second Respondent, which is evidently a show cause notice calling upon the Petitioner to show cause as to why she had signed the cheques relating to the account a total sum of Rs. 7,78,000/- of the Village Panchayat without the release order from the concerned Block Development Officer.

3. The consistent legal position has been reiterated by the Hon'ble Supreme Court of India in *Union of India -vs- Kunisetty Satyanarayana* [(2006) 12 SCC 28] that a charge memo or show cause notice cannot be challenged before



W.P. No. 6133 of 2022

the completion of enquiry and the proceedings cannot be interdicted till it

reaches its logical conclusion. It would be useful here to extract the relevant

passages from the said decision which read as follows:-

*“13. It is well settled by a series of decisions of this Court that ordinarily no writ lies against a charge sheet or show-cause notice vide **Executive Engineer, Bihar State Housing Board -vs- Ramdesh Kumar Singh** [JT 1995 (8) SC 331], **Special Director -vs- Mohd. Ghulam Ghouse** (AIR 2004 SC 1467), **Ulagappa -vs- Divisional Commissioner, Mysore** [2001(10) SCC 639], **State of U.P. -vs- Brahm Datt Sharma** (AIR 1987 SC 943) etc.*

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show-cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is



W.P. No. 6133 of 2022

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well settled that a writ lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance.

15. Writ jurisdiction is discretionary jurisdiction and hence such discretion under Article 226 should not ordinarily be exercised by quashing a show-cause notice or charge sheet.

16. No doubt, in some very rare and exceptional cases the High Court can quash a charge-sheet or show-cause notice if it is found to be wholly without jurisdiction or for some other reason if it is wholly illegal. However, ordinarily the High Court should not interfere in such a matter.”

Having due regard to the aforesaid legal position, as there is nothing which precludes the Petitioner from raising the contentions in this Writ Petition in the reply to be submitted to the Second Respondent, who is bound to deal with the same before coming to any ultimate conclusion, there is no necessity for the Court to interfere at this pre-mature stage of the matter.



W.P. No. 6133 of 2022

4. In such circumstances, this Court without expressing any view on the merits of the controversy involved in the matter, passes the following order:-

- (i) it shall be incumbent upon the Petitioner to submit her explanation to the show-cause notice, which is impugned in the Writ Petition, if not done already, to the concerned authority by 03.11.2023;
- (ii) in the event of not being satisfied with the explanation submitted by the Petitioner, an enquiry shall be conducted following the prescribed procedure after affording full opportunity of personal hearing to the Petitioner to explain her position in that regard and a reasoned order shall be passed dealing with each of the contentions raised on merits and in accordance with law and the decision taken communicated under written acknowledgment; and
- (iii) if any adverse decision is taken, the Petitioner may pursue legal remedies in accordance with law.

In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

13.10.2023

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Index: Yes/No

Note: Issue order copy by 27.10.2023.



W.P. No. 6133 of 2022

To

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Tiruvannamalai District,
Tiruvannamalai.
2. The Block Development Officer (Village Panchayat)
Tiruvannamalai Block,
Tiruvannamalai.



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W.P. No. 6133 of 2022

P.D. AUDIKESAVALU, J.

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W.P. No. 6133 of 2022

13.10.2023