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Writ Petition No.6688 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 13.03.2023

Coram:

THE HONOURABLE MR. JUSTICE RMT.TEEKAA RAMAN

Writ Petition No.6688 of 2023
and WMP No.6741 of 2023

A.Kanagaraj

.. Petitioner

versus

1. The Inspector of Village Panchayat
cum the District Collector,
Mayiladuthurai District.

2. The Assistant Director (Local Bodies),
Kollidam Taluk,
Mayiladuthurai District.

3. The Revenue Tahsildar,
Kollidam Taluk,
Mayiladuthurai District.

4. The Rural Development Officer,
Kollidam Taluk,
Mayiladuthurai District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India
praying to issue a Writ of Ceritorari, to call for the records of the 1st respondent
in Pro.Na.Ka.No.33/A3/A.D.(L)/2021 dated 19.01.2023 and to quash the same.



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For Petitioner : Mr.A.K.Sriram, Sr. Counsel
for Mr.S.A.Shanmugam

For Respondents : Mrs.S.Mythreye Chandru (for R1 to R3)
Special Government Pleader

Mr.V.Ramesh (for R4)
Government Advocate.

ORDER

The writ petition is filed for the following relief:

“for issuance of a Writ of Ceritorari, to call for the records of the 1st respondent in Pro.Na.Ka.No.33/A3/A.D.(L)/2021 dated 19.01.2023 and to quash the same.”

2. The Brief facts leading to the filing of the above case is summarised hereunder.

(i) The petitioner is the elected President of Anaikkaranchatram Village Panchayat in Kollidam Panchyat Union, Mayiladuthurai District. One Thiru.Muthuvelan, son of Murugan, 162, Thoppu Street, Kollidam, sent a complaint addressed to the Hon'ble Chief Minister of Tamilnadu on 14.07.2021 marking copy to the respondents herein stating that the President and the Vice President of Annaikkaranchatram Village Panchayat in Kollidam Union are doing malpractices in the general fund of the village Panchayat to the tune of



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several lakhs and particularly, the Vice President has obtained work contract in the name of his wife and also swindled government money as if pipe lines were laid. In the said petition, it was also stated that there are malpractices in the construction of Pradhan Mantri Awaas Yojana Scheme.

(ii) Further, one R.Kumar, member of Ward No.8 of Anaikkaranchatram Panchayat has also sent a similar complaint on 19.07.2021. Thiru.K.Ravisundaram, son of Krishnasamy, Nathalpadugai, Anumanthapuram, has also made a complaint on 01.11.2021, against the President and Vice President of Anaikkaranchatram Panchayat.

(iii) The Zonal Deputy Block Development Officer, Kollidam has inspected the accounts of Anaikkaran Village Panchayat and sent a report to the Block Development Officer, Kollidam and based on such report, the Block Development Officer, Kollidam has sent a detailed report to the 1st respondent vide Letter No.1719/2021.B1 dated 25.02.2022 in which it was pointed out that there are irregularities in the execution of works connected with purchase of spare parts of street light maintenance, laying of water taps, hand pumps, main of overhead tanks etc.



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(iv) Based upon the representation, the 1st respondent herein initiated action under Section 205(a) of the Tamilnadu Panchayats Act,1994 and passed a final order dated 19.01.2023, terminating the petitioner from the post of Panchayat Board President. The same is challenged in this writ petition.

3. Counter affidavits filed by the 1st respondent and 4th respondents, are taken on record.

4. It appears from the counter affidavit filed by the 1st respondent District Collector cum Inspector of village Panchayat that the guidelines issued by the Government in G.O.157, Rural Development and Panchayat Raj Department dated 21.12.2015 with regard to the limitation of expenditure has been violated.

5. It is further contended that the Assistant Director (Panchayat) has also conducted audit of the accounts of Annaikkaranchatram Panchayat and sent a detailed report on 25.03.2022 pointing out the irregularities and violations in the matter of incurring expenditure towards purchase of spare



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parts for the maintenance of street lights, hand pumps, Overhead Tanks and collection of income tax from the contractors of Scheme works that too some works were carried out even without resolution of the panchayat council, administrative sanction, technical sanction etc.

6. Consequently, the 1st respondent has issued orders vide proceedings in Rc.33/A3/2022 AD (Pt) dated 06.04.2022 to stop direct payment of expenses by the President and Vice President of the Village Panchayat and delegating such powers to the Zonal Deputy Block Development Officer, the Block Development Officer (Village Panchayat) Kollidam in public interest so as to avoid further malpractices by the President and Vice President of the village Panchayat.

7. Thereafter, having satisfied with the complaint received, the 1st respondent has issued show cause notice calling upon the petitioner to show cause as to why action should not be initiated under Section 205 of the Tamilnadu Village Panchayats Act, 1994 vide Rc.33/2021/A3/AD(Pt) dated 06.04.2022. In the said notice, specific charges were made against the President of the village panchayat.



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8. The petitioner has offered explanation vide his representation dated 20.04.2022 which are not satisfactory. In fact the petitioner has admitted that professional tax amount of Rs.72,265/- has been utilized for pouring bleaching powder, shamina shed for covid test etc. and remitted the amount belatedly.

9. The petitioner has only promised to collect the dues towards income tax under several scheme including G.S.T. and flag day dues. The petitioner has admitted that he has drawn Rs.45,946/- in the name of President which is not permissible under the rules. In so far as excess expenditure incurred towards street light maintenance, hand pumps, etc. the petitioner has admitted the charge and requested to ratify the excess expenditure.

10. As the explanation offered by the petitioner is found to be unsatisfactory, notice was issued to the Vice President of the Village Panchayat vide letter dated 13.06.2022. The 1st respondent also issued orders directing the Tahsildar, Sirkali to conduct special meeting of Anaikkaranchatram Village Panchayat as mandated under Section 205(2) of the Tamil Nadu Village Panchayat Act.



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11. Pursuant to the said order the Tahsildar, Sirkali has conducted the meeting of the council of Anaikkaranchatram Village Panchayat on 28.12.2022 and submitted his report vide Rc.No.5711/2022/A2 dated 05.10.2022. As per the report of the Tahsildar, Sirkali, 14 out of 15 Ward member of Anaikkaranchatram Village Panchayat were present during the meeting conducted on 28.10.2022. the Tahsildar, Sirkali has recorded individual statements in which all the Ward members except Sujatha (5th Ward Member) have offered their views that the petitioner has to be allowed to continued as President.

12. The statutory violations of the tender rules, in incurring expenditure over and above the financial limitation fixed by the Government, drawing of money in the name of the President, cannot be justified by the written statement of the Ward Members seeking to allow the petitioner herein as the President of Anaikkaranchatram Panchayat, assumes significance.

13. The 1st respondent is not satisfied with the views of the Village Panchayat council of Anaikkaranchatram Village Panchayat and consequently, passed orders under Section 205(11) of Tamilnadu Village Panchayats Act,

1994, removing the petitioner herein from the post of President of



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Anaikkaranchatram Village panchayat, Kollidam Union, Mayiladuthurai District as per the orders vide Rc.33/2021/A3/AD(Pt) dated 18.01.2023. Further, necessary statutory notification has also been published in Tamilnadu Government Gazette Part VI Section 2 dated 08.02.2023.

14. Learned Senior Counsel appearing for the petitioner drew my attention to the ratio laid down by the Hon'ble Full Bench of this Court for removal of Panchayat President under Section 205 of the Tamilnadu Panchayats Act, 1958 in the decision reported in 2009 (4) LW 778 ***[The District Collector and Inspector of District Panchayat, Villupuram District & another Vs. Devi Parasuraman & Another]***, wherein it is held as follows:

“8. Now the question arises:-

- a) whether action u/s 205 for removal of the President of Panchayat is quasi-judicial; and
- b) Whether for such removal of the President of Panchayat, the Inspector is bound to record reasons.....

15. An order passed by a statutory authority if visited with civil or evil consequences must meet the test of reasonableness. If it prejudicially affects the subject, for example, the President in the present case, then the authority should give reasons.....

In case of unsatisfactory explanation or non-explanation, the Inspector cannot take a decision of his own, but required to forward the matter to the Tahsildar for the decision of the Village Panchayat. It is the Village Panchayat, which records reasons in its minutes of the meeting. Normally the



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Inspector has to act on such decision. In such case, reason being on record, for acceptance of such report no further reason required to be recorded by the Inspector. However, in case the Inspector differs with the decision of the Village Panchayat, to test the reasonableness of such decision, the Inspector is not only supposed to record the reason, but also required to follow the rules of natural justice by communicating the reasons to the President by giving an opportunity to explain before coming to a conclusion.”

15. The learned Special Government Pleader based upon the counter filed on behalf of the 1st respondent, submitted that the petitioner has to exhaust the alternative remedy available under Section 205(12) of the Tamilnadu Panchayats Act, 1994, as reiterated by the Hon'ble First Bench of this Court in the ***District Collector – cum – Inspector of Panchayat Vs. S.Senthamizhselvi (DB)*** reported in **2009(1) CTC 356** referred in WP No.14491 of 2011 and WP (MD) No.7550 of 2011.

16. After going through the decision of the Hon'ble Full Bench, this Court is of the view that for recording the removal of the petitioner from the post of the said village panchayat, a second show cause notice on the nature of proposed punishment of removal, is to be served, calling upon him and recording the reasons as to why the District Collector-cum-Inspector of Panchayat, is differing from the views expressed by the Village Panchayat.



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17. Therefore, the non-observance of the ratio laid down by the Hon'ble Full Bench, compels this Court to interfere with the impugned order, hence the impugned order is liable to be set aside. Accordingly, the impugned order is set aside for the non compliance of the directions issued in **paragraph No.15** of the above said Full Bench judgment.

18. Taking into consideration the various irregularities alleged to have been committed by the petitioner which has also come out on record by the Assistant Director (Local Bodies), Kollidam Taluk, the 1st respondent District Collector-cum-Inspector of Panchayat, is hereby required to follow the procedure and to pass fresh orders as contemplated under the Act.

19. I am not expressing any view as to the alternative remedy provided under Section 205(12) since, I have interfered with the order passed under Section 205 (a) following the decision of the Full Bench of this Court.

20. In this view of the matter, the writ petition is allowed to the limited extent indicated above. The 1st respondent-District Collector-cum-Inspector of Panchayat, Mayiladuthurai District, shall pass necessary orders



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afresh, after observing the formalities as required, within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, the connected Writ Miscellaneous Petition is closed.

13.03.2023

Index : Yes/No

Speaking order / Non-speaking order

Neutral Citation: Yes/No.

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RMT.TEEKAA RAMAN,J

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