



W.P.No.10600 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2023

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.10600 of 2023
and
W.M.P.No.10552 of 2023

Smt.D.Poornima Rangarajan,
President of Marudur Village Panchayat,
Karamadai Panchayat Union,
Mettupalayam Taluk,
Coimbatore District.

...Petitioner

-Vs-

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,
Mettupaalayam Taluk Office,
Coimbatore District.

...Respondents



W.P.No.10600 of 2023

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 Respondent's impugned order in Na.Ka.423/2023/Aa3 dated 29.03.2023 (received on 31.03.2023), and quash the same and consequently forbearing the Respondents from in any manner holding any proceedings under Section 205 of the Tamilnadu Panchayat Act, 1994.

For Petitioner : Mrs.P.Kavitha

For Respondents :

(for R1, R2 & R4) : Mr.S.Arumugam, Govt.Advocate

(for R3) : Mr.T.K.Saravanan, Govt. Advocate

ORDER

The meeting of the members of the Marudur Village Panchayat sought to be convened by the Tahsildar through proceeding dated 29.03.2023 is under challenge in the present writ petition.

2.The petitioner is an elected Panchayat President of Marudur Village Panchayat, Karamadai Panchayat Union, Mettupal-ayam Taluk, Coimbatore District. The petitioner is discharging his duty as a Panchayat President from 06.01.2020.



W.P.No.10600 of 2023

3.Complaints are sent against the writ petitioner for his removal from the post of Panchayat President by invoking Section 205 of the Tamil Nadu Panchayat Act, 1994. In respect of the audit objections, the petitioner submitted her explanations to the competent authority. Thereafter the impugned order has been passed in a proceeding dated 29.03.2023 to convene a meeting to ascertain the views of the members of the Panchayat which is contemplated under Section 205(3) of the Tamil Nadu Panchayat Act, 1994.

4.The learned counsel for the petitioner strenuously contended that before convening a meeting of the members of the Panchayat, the Inspector of Panchayat has to form an opinion and pass an order either dropping the allegations or to proceed further in accordance with the procedures contemplated under Section 205 of the Act. In the present case, no order has been passed by the Inspector of Panchayat/District Collector, and in the absence of passing any such orders, meeting cannot be convened under Section 205(3) of the Panchayat Act.

5.In support of the said contention, the learned counsel for the petitioner relied on the orders passed by this Court in W.P.No.2450 and



W.P.No.10600 of 2023

2451 of 2015, dated 26.03.2015, and the said observations made in the above orders were followed in other writ petition in W.P.No.3723 of 2023 dated 14.02.2023. Relying on the said observations made in the above orders passed by this Court, the learned counsel for the petitioner reiterated that the Collector is duty-bound to pass an order before forwarding the papers to the Tahsildar for the purpose of ascertaining the views of the members of the Panchayat. In the present case, no such order has been passed by the District Collector and therefore, the orders passed under Section 205(3) of the Panchayat Act is in violation of the procedures contemplated under Sub-section (2) of Section 205 of the Act.

6.The grounds raised by the petitioner relates to the procedures to be followed by the Inspector of Panchayat for the purpose of removal of the President under Section 205 of the Panchayat Act. The procedures contemplated have to be read holistically to understand the purpose for which such procedures are formulated by the legislatures, purposive interpretation of the procedures is imminent and in the absence of such interpretation, the purpose sought to be achieved will be defeated. More so, any violations would lead to infringement of the rights of a person or violation of the Rules of Natural Justice. Thus, careful and cogent reading



W.P.No.10600 of 2023

and understanding of the procedures are of paramount importance since the litigants will raise several grounds in between in order to defeat the provisions of the Act and the procedures contemplated.

7.Let us now consider the scope of Section 205 of the Tamil Nadu Panchayat Act which contemplates the removal of the President.

The ***Sub-section (1)*** stipulates “***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 date, his explanation with respect to his acts of omission or commission mentioned in the notice.”



W.P.No.10600 of 2023

8. In the present case, there are certain allegations regarding the audit objections, and accordingly, the Inspector of Panchayat initiated action against the writ petitioner and issued a show-cause notice seeking an explanation from the petitioner. The petitioner admittedly submitted her explanation on 23.12.2022. On receipt of such explanation from the Panchayat President, Sub-section (2) of Section 205 comes into operation. ***Sub-Section(2)*** contemplates “*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.*” Thus, a power has been conferred to the Inspector of Panchayat to drop the proceedings on receipt of any explanation and if the explanation is satisfactory to the Inspector of Panchayat. In such circumstances, it is not necessary that a speaking order is to be passed by the Inspector of Panchayat since he is satisfied that the allegations are not substantiated and a decision is taken to drop all further proceedings. Dropping of action would not have any civil consequences and therefore, if the Inspector of Panchayat decides to proceed further, then alone the further procedures contemplated under Section 205 is to be followed.

Sub-Section(2) further stipulates “*If no explanation is received within the specified date or if the explanation received is in his opinion not*



W.P.No.10600 of 2023

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.” Therefore, Sub-Section (2) of Section 205 is not a concluding procedure and it is only an ongoing procedure which is contemplated for the purpose of arriving at a final decision and therefore, the meaning of Sub-Section(2) of Section 205 cannot be interpreted so as to form an opinion that the Collector has to pass an order in writing regarding the decision taken to forward the files to the Tahsildar for the purpose of ascertaining the views of the Village Panchayat.

9.Let us examine the consequences. If the Collector passes an order on receipt of the explanation from the Panchayat President, stating that he is not satisfied with the explanation, then such order would provide a cause of action for the aggrieved Panchayat President to move to the higher authorities or to the High Court. In such circumstances, the very purpose and object of ascertaining the views of the members of the Panchayat will be defeated. More so, the decision, if it is made in writing and communicated to the Panchayat President aggrieved, thereafter,



W.P.No.10600 of 2023

ascertaining the views would not arise at all. The further procedures contemplated under Part-2 of the Sub-section (2) and Sub-section (3) will be completely defeated. Therefore, the act intends to provide further opportunity to the aggrieved person and an opportunity to ascertain the views of the members of the Village Panchayat. Due weightage to the opinion and views of the members of the Panchayat also to be given and such views are also to be considered by the Inspector of the Panchayat before forming a final opinion and passing an order regarding the removal of the President under Section 205 of the Act. In the event of passing an order at an intermediate stage and breaking the further procedures would result in defeating the object of the further procedures contemplated under Sub-Section(3) and further procedures contemplated under Section 205 of the Act.

10.Taking note of the above procedures under Sub-Section (2) of Section 205, that if the Inspector of the Panchayat is in his opinion not satisfactory, he shall forward to the Tahsildar for the purpose of ascertaining the views of the members of the Panchayat. Even otherwise also, the language employed in Sub-Section (2) is that “if the explanation received is in his opinion not satisfactory”. Therefore, it is sufficient if the



W.P.No.10600 of 2023

District Collector forms an opinion for dropping of the allegations or to forward the files to the Tahsildar for the purpose of ascertaining the views of the members of the Panchayat. Mere formation of opinion cannot be interpreted as if the Collector has to pass an order in writing which is to be communicated to the Panchayat President. Such a procedure has neither been intended by the legislature nor contemplated under Sub-Section (2) of Section 205 of the Act. It is sufficient if the Inspector of Panchayat forms an opinion and such opinion need not be communicated to the Panchayat President. If it is communicated, then the further procedures contemplated under Sub-Section (3) would be defeated. More so, the very purpose of ascertaining the views of the members of the Panchayat is also for the purpose of aiding the Inspector of the Panchayat to take final decision. Therefore, the further procedures cannot be allowed to be defeated by insisting the Collector to pass an order in respect of the opinion formed by him and to forward the files to the Tahsildar to ascertain the views of the members of the Village Panchayat.

11.Under Sub-section(3), if the Inspector of Panchayat forms an opinion and forwards the files to the Tahsildar for the purpose of ascertaining the views of the members of the Village Panchayat, thereafter,



W.P.No.10600 of 2023

under Sub-section(3), the Tahsildar shall then convene a meeting for consideration of the notice and explanation if any, and the proposal for the removal of president at the office of the village Panchayat at the time appointed by the Tahsildar.

12.**Sub-Section(3)** unambiguously stipulates : “*The Tahsildar shall then convene a meeting for the consideration of the notice and the explanation, if any, and the proposal for the removal of the President, at the office of the Village Panchayat at a time appointed by the Tahsildar.*”

Therefore, the notice and the explanation, if any is available in the file, then alone it is to be placed before the members at the time of convening the meeting. It is not necessary that such explanation or notice be communicated to the members in advance. However, it is to be placed in the meeting for the consideration of the members and for forming an opinion and to express their views regarding the notice and the explanation.

13.**Sub-Section(4)** denotes that “*A copy of the notice of the meeting shall be caused to be delivered to the President and to all the members of the Village Panchayat by the Tahsildar at least seven days*



W.P.No.10600 of 2023

before the date of the meeting”. Therefore, to convene a meeting, a notice in advance, at least 7 days before, is to be issued by the Tahsildar, and in the present case, the said notice dated 29.03.2023 is under challenge in the present writ petition.

14.**Sub-section(5)** stipulates “*The Tahsildar shall preside at the meeting convened under this section and no other person shall preside thereat. If, within half an hour appointed for the meeting, the Tahsildar is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the members and the President by the Tahsildar under sub-section (6)*”.

Sub-section (7) states that “*Save as provided in sub-sections (5) and (6), a meeting convened for the purpose of considering the notice and the explanation, if any, and the proposal for the removal of the President under this section shall not, for any reason, be adjourned.*”

Sub-section (8) contemplates “*As soon as the meeting convened under this section is commenced, the-Tahsildar shall read to the Village Panchayat the notice of the Inspector and the explanation if any, of the President [and the proposal for the removal of the President], for the consideration of which it has been convened.*”



W.P.No.10600 of 2023

Sub-section (8-A) contemplates that “[*There shall be no debate in any meeting under this section.*]”

Sub-section (9) speaks that “*The Tahsildar shall not speak on the merits of the notice or explanation nor shall he be entitled to vote at the meeting.*”

Sub-section (10) states that “*The views of the Village Panchayat shall be duly recorded in the minutes of the meeting and a copy of the minutes shall forthwith, on the termination of the meeting, be forwarded by the Tahsildar to the Inspector.*”

Sub-section (11) stipulates “*The Inspector may, after considering the views of the Village Panchayat in this regard, in his discretion either remove the President from office by notification with effect from a date to be specified therein or drop further action.*”

Sub-section (12) states that “*The Government shall have power to cancel any notification issued under sub-section (11) and may, pending a decision on such cancellation, postpone the date specified in such notification.*”

15. An important interpretation to be culled out with reference to Sub-section (2) and Sub-section (11,) wherein the Inspector of Panchayat has been conferred with the power to drop action. Even on receipt of



W.P.No.10600 of 2023

explanation from the Panchayat President against whom the proposal is mooted out, the Collector / Inspector of Panchayat can drop further action.

Even after following the procedures contemplated from Sub-section (2) to Sub-section(10), the Inspector of Panchayat can drop further action under Sub-section (11) of Section 205 of the Act. Therefore, the question arises is - whether the Collector has to take a decision and pass orders in writing at each stage? Undoubtedly that is not intended by the Legislatures since the procedures contemplated are comprehensive enough to provide an opportunity to the elected President of Panchayat to defend his case and not take a decision at each and every stage and pass orders in writing, making unnecessary cause for reviewing litigations. Only after exhausting the procedures and the opportunities, and only against the final decision taken by the Inspector of Panchayat, aggrieved person must approach the appellate forum or the Court under Article 226 of the Constitution of India as the case may be.

16.Thus, the opinion to be formed by the Inspector of Panchayat under Sub-section (2) of Section 205 need not be communicated to the Panchayat President and it is only an opinion to be formed by the Inspector of Panchayat for the purpose of proceeding further and to forward the files



W.P.No.10600 of 2023

to the Tahsildar in order to ascertain the views of the members of the

Village Panchayat. After forwarding the files of the Tahsildar and after

following the procedures contemplated from Sub-section (3) to Sub-

section (11), the Inspector of Labour shall pass a final order either

dropping the action or by removing the President under Section 205 of the

Panchayat Act. The distinction between Sub-section (2) and Sub-section

(11) would be, the language employed in Sub-section (2) is that “If the

explanation received is in his opinion not satisfactory”, does not mean that

it is to be communicated to the Panchayat President concerned. The

opinion as contemplated is to be construed only for the purpose of

forwarding the files to the Tahsildar to ascertain the views of the members

of the panchayat and certainly not for the purpose of taking a final decision

or to pass orders in writing or to communicate such decisions to the

Panchayat President concerned.

17.Two level compartmentalisation has been made under the

procedures contemplated under the Section 205 of the Act. An opportunity

was granted to the aggrieved Panchyat President to convince the Inspector

of Panchayat by submitting his explanation and if the Inspector of

Panchayat is convinced with the explanation, then he need not proceed



W.P.No.10600 of 2023

further and drop further proceeding attached to it at that stage. Once the

Collector, in his opinion is not satisfied with the explanation submitted, he

has to follow the procedures as contemplated under Sub-section (3) to Sub-

section (11) and thereafter, he has to take a final decision either to remove

the President or drop further action. Thus, the language employed in Sub-

section (11) is to govern that further action must be reasoned in writing

and to be communicate to the Panchayat President concerned. So also if

the order of removal is passed, it is needless to state that it must be

reasoned and must be in writing .

18.The exhaustive procedures contemplated can never be

allowed to break at the intermittent stage or the parties may be allowed to

file a writ petition at each and every stage with an ill motive to defeat the

proceedings. No writ against the intermittent proceedings are entertainable

in a routine manner by the Courts. Only if the procedures contemplated

are violated, the Courts would be in a position to remand the matter for the

purpose of following the procedures and certainly not to drop the

procedures, which will defeat the very purpose and object of the

enactment. Thus, entertaining the writ petitions at each and every stage in a

removal proceedings shall not be entertained and the Inspector of



W.P.No.10600 of 2023

Panchayat must be allowed to follow the procedures as contemplated under Section 205 of the Act for the purpose of taking a final decision by affording opportunity to the aggrieved Panchayat President as contemplated under Section 205 of the Act.

19. In the present case, it is only a notice for convening meeting, which was issued by the Tahsildar since the files were forwarded to the Tahsildar to ascertain the views of the members of the Panchayat. Thus, under Sub-section (2) the Inspector of Panchayat was not satisfactory with the explanation and formed an opinion that it is to be forwarded to the Tahsildar for ascertaining the views of the Town Panchayat. Thus, the opinion formed by the Inspector of Panchayat under Sub-section (2) is not final or conclusive and it is only an opinion formed at that stage which requires further consultative process and the procedures to be followed as contemplated under Sub-section(3) to (11) of Section 205 of the Act.

20. Thus, it is made clear that all the procedures, as contemplated and elaborately considered by this Court, is to be followed scrupulously by the respondents for the purpose of concluding the proceedings initiated against the writ petition under Section 205 of the Panchayat Act. Such an



W.P.No.10600 of 2023

exercise is directed to be done as expeditiously as possible without causing any undue delay.

21. With these observations, the writ petition stands **dismissed**.

However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

(sha)

05.04.2023

Index : Yes

Speaking Order

Neutral Citation : Yes

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,
Mettupaalayam Taluk Office,
Coimbatore District.



WEB COPY



W.P.No.10600 of 2023

S.M.SUBRAMANIAM. J.,

(sha)

W.P.No.10600 of 2023

05.04.2023