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W.P.Nos.15152 & 27572 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

WP.Nos.15152 & 27572 of 2021 &

WMP.Nos.16100, 16105, 16108 of 2021 & 25149 of 2022

W.P.No.15152 of 2021

M.S.Mylsamy,
President,
S.Malayandipattinam Village Panchayat,
Seelakkampatti Post, Pollachi Taluk,
Coimbatore District – 642 018.

... Petitioner

Vs

1. The District Collector /Inspector of Panchayats,
Coimbatore – 642 018.
2. The Assistant Director of Panchayats,
Collectorate, Coimbatore – 642 018.
3. The Block Development Officer,
Village Panchayat, Pollachi South Panchayat Union,
Pollachi.
4. Mr.K.Balasubramanian,
Block Development Officer, Village Panchayat,
Pollachi South Panchayat Union, Pollachi.



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5. The Assistant Electricity Engineer,
Tamil Nadu Electricity Generation & Distribution Corporation,
Udumalpet Distribution Circle,
Gomangalam – 642 107.
6. The Assistant Administrative Engineer,
Tamil Nadu Water Supply and Drainage Board,
Maintenance Sub – Division, Pollachi – 642 002.
7. Mr.T.Ravi,
Vice President, Thottathu Slalai,
S.Malayandipattinam, Seelakkampatti Post,
Pollachi Taluk, Coimbatore District – 642 205. ... Respondents

Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Mandamus to directing the first respondent to initiate appropriate proceedings under Section 206 of the Tamil Nadu Panchayats Act 1994 for the remove of the 7th respondent from the post of Vice President of the S.Malayandipattinam Village Panchayat in Pollachi South Panchayat Union, Coimbatore District for his wilful omission and refusal to discharge his duty to sign cheques and other financial papers as joint signatory along with the petitioner / Village Panchayat President, that too during nationwide Covid – 19 pandemic situation, thereby withholding salaries for months together even to the Panchayat Secretary and Panchayat sweepers and workmen numbering 6, out of whom 5 including the Panchayat Secretary belong to Scheduled Caste and rendering the Village Panchayat incapable of providing and paying for the various service providers, vendors and even for the payment to the 5th respondent and 6th respondent for supply of electricity and water respectively, in spite



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of so many directions and instructions issued by the 1st respondent / District Collector himself from time to time in this regard and consequently direct the 1st Respondent/ District Collector to provide appropriate instructions to enable the petitioner to discharge his functions smoothly as the President of the Village Panchayat.

W.P.No.27572 of 2021

M.S.Mylsamy,
President,
S.Malayandipattinam Village Panchayat,
Seelakkampatti Post, Pollachi Taluk,
Coimbatore District – 642 018.

... Petitioner

Vs

1. The District Collector /Inspector of Panchayats,
Coimbatore – 642 018.
2. The Assistant Director of Panchayats,
Collectorate, Coimbatore – 642 018.
3. The Block Development Officer,
Village Panchayat, Pollachi South Panchayat Union,
Pollachi.
4. The Deputy Block Development Officer,
Village Panchayat, Pollachi South Panchayat Union,
Pollachi.
5. Mr.T.Ravi,
Vice President, Thottathu Slalai,
S.Malayandipattinam, Seelakkampatti Post,
Pollachi Taluk, Coimbatore District – 642 205. ... Respondents



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Prayer:- Writ Petition is filed, under the Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.1241/2021/A3 dated 16.08.2021 and to quash the same and consequently direct the first respondent to pass Orders under Section 204 [3] of the Tamil Nadu Panchayats Act 1994 thereby authorizing the petitioner the petitioner/Village Panchayat President to perform the duties entrusted with the Village Panchayat as per law including the authority to sign cheques based in his representation dated 26.08.2021 explaining that there is no co-operation from the fifth respondent/Vice President as well as three other ward members to perform the duties imposed under the Tamil Nadu Panchayats Act 1994.

For Petitioner : Mr.M.Purushothaman in both WPs

For Respondents : Mrs.R.Anitha,
Special Government Pleader – R1 & R2 in
both WPs

Mr.S.Nagarajan for R7 in W.P.No.15152
of 2021 & R5 in W.P.No.27572 of 2021

Mr.M.Abdul Kalam – R6 in WP.15152/21

Mrs.Y.Kavitha – R6 in WP.No.15152/21



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COMMON ORDER

The Writ Petition in W.P.No.15152 of 2021 has been filed to direct the first respondent to initiate appropriate proceedings under Section 206 of the Tamil Nadu Panchayats Act 1994 for removal of the 7th respondent from the post of Vice President of the S.Malayandipattinam Village Panchayat in Pollachi South Panchayat Union, Coimbatore District for his wilful omission and refusal to discharge his duty to sign cheques and other financial papers as joint signatory along with the petitioner / Village Panchayat President, that too during nationwide Covid – 19 pandemic situation, thereby withholding salaries for months together even to the Panchayat Secretary and Panchayat sweepers and workmen numbering 6, out of whom 5 including the Panchayat Secretary belong to Scheduled Caste and rendering the Village Panchayat incapable of providing and paying for the various service providers, vendors and even for the payment to the 5th respondent and 6th respondent for supply of electricity and water respectively, in spite of so many directions and instructions issued by the 1st respondent / District Collector himself from time to time in this regard



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and consequently direct the 1st Respondent/ District Collector to provide appropriate instructions to enable the petitioner to discharge his functions smoothly as the President of the Village Panchayat.

2. The Writ Petition in W.P.No.27572 of 2021 has been filed to quash the impugned order passed by the first respondent in his proceedings dated 16.08.2021 and consequently direct the first respondent to pass Orders under Section 204 [3] of the Tamil Nadu Panchayats Act 1994 thereby authorizing the petitioner/Village Panchayat President to perform the duties entrusted with the Village Panchayat as per law including the authority to sign cheques based in his representation dated 26.08.2021 explaining that there is no co-operation from the fifth respondent/Vice President as well as three other ward members to perform the duties imposed under the Tamil Nadu Panchayats Act 1994.

3. Mr.Purushothaman, the learned counsel appearing for the petitioner vehemently contended that the impugned Order is passed without any basis and by non application of mind. The impugned Order itself indicate that only the Vice President, who is the fifth respondent in



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W.P.No.27572 of 2021 has not co-operated in signing the cheque which resulted even in non payment of salary to the staff and there were previous proceedings in the Panchayat to nominate other members in his place to sign the cheque. Despite the above facts, merely on the basis that the Vice President not co-operated with the President, action has been taken against the President, the entire administration has been handed over to the Block Development Officer.

4. The learned counsel appearing for the fifth respondent would submit he will co-operate and sign in the cheque along with the President and as there was some irregularities in the year 2018 – 2019, he did not co-operate with the President. The fifth respondent has also filed an affidavit before this Court undertaking to co-operate with the President in the interest of the Panchayat. According to him, the power of signing of the cheque has to be restored both to the President and Vice President.

5. The learned counsel appearing for the first respondent would submit that since there is no co-operation between the President and Vice President of the Panchayat, the impugned Order came to be passed. If the



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Vice President co-operates with the President, power of cheque signing power will be restored them.

6. A perusal of entire records, particularly, the impugned Order divesting the power of the Panchayat, this Court is of the view that the Order impugned is not according to law for the simple reason that having rendered a finding to the effect that the Vice President has not co-operated with the President, the Collector being the Inspector, ought to have appointed another person, to sign along with the President to exercise their power. Whereas, he has divested the power of the President in administration. Such an Order of the District Collector is not according to law. In such view of the matter, the impugned Order is liable to be set aside. The affidavit filed by the Vice President is taken on record. The President and the Vice President shall ensure smooth functioning of the Panchayat and its administration.

7. At this stage, the learned counsel appearing for the petitioner would submit that the President is a philanthropist man and he himself prefer to instal CCTV camera in the Panchayat office and every Panchayat



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meeting will be recorded to avoid any false allegations later. If the President is spending such an amount on his own to fix CCTV camera, this Court is of the view that the same can be permitted. In such view of the matter, every meeting of the panchayat, to prevent any further dispute between the President and Vice President or among any other members, the CCTV camera can be installed in the Panchayat Office. Collector can easily find out if there is any mismanagement in the Panchayat office.

8. Accordingly, the impugned Order dated 16.08.2021 is set aside and the Writ Petition in W.P.No.27572 of 2021 is allowed. Since Vice President has already filed an affidavit to the effect that he will co-operate with the President, no further Order is required in the Writ Petition in W.P.No.15152 of 2021 and the Writ Petition in W.P.No.15152 of 2021 is closed. Consequently, connected miscellaneous petitions are closed.

21.02.2023

Index:Yes/No

Neutral Citation : Yes/No

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N.SATHISH KUMAR, J.

VTC

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