



W.P.No.3430 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

W.P.Nos.15142 and 15773 of 2023
and WMP Nos.14635 and 15217 of 2023

W.P.No.15142/2023

D.Soundhara Rajan
President
Bodipatti Village Panchayat
Udumalaipettai Panchayat Union
Tiruppur District.

... Petitioner

-Vs-

1.The Inspector of Panchayat/District Collector
Tiruppur District, Tiruppur.

2.The Assistant Director of Panchayats (V.P)
Collectorate Campus, Tiruppur.

3.The Block Development Officer (V.P)
Udumalaipettai Panchayat Union
Tiruppur District.

4.The Tahsildar
Udumalaipettai Taluk
Tiruppur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, to call for all the records pertaining to the impugned notice issued by the 1st respondent vide Na.Ka.No.530/2022/A1 dated 26.04.2023 and to quash the same as illegal and unconstitutional and consequently direct the 1st



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respondent to drop the removal proceedings initiated under Section 205 of Tamil nadu Panchayats Act, 1994.

For Petitioner Mr.R.Venkatraman
Senior Counsel
for Mr.S.Balamurugan

For Respondents Mr.S.Arumugam
Government Advocate

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D.Soundhara Rajan
President
Bodipatti Village Panchayat
Udumalaipettai Panchayat Union
Tiruppur District.

... Petitioner

-Vs-

- 1.The State of Tamilnadu
Rep.by the Principal Secretary to Government
Rural Development and Panchayat Raj Department
Fort St.George, Secretariat
Chennai-600 009.
- 2.The Inspector of Panchayat/District Collector
Tiruppur District, Tiruppur.
- 3.The Assistant Director of Panchayats (V.P)
Collectorate Campus, Tiruppur.
- 4.The Assistant Director of Rural Development (Audit)
Collectorate Campus, Tiruppur.
- 5.The Block Development Officer (V.P)
Udumalaipettai Panchayat Union
Tiruppur District.



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6.The Tahsildar
Udumalaipettai Taluk
Tiruppur District.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari, to call for all the records pertaining to the impugned order passed by the 2nd respondent in Na.Ka.No.530/2022/1 dated 4.5.2023 which served to the petitioner on 12.05.2023 and consequential gazette notification No.VI(2)/8(a)/2023 dated 12.5.2023 effect by 2nd respondent which served to the petitioner on 16.5.2023 and quash the same as illegal and unconstitutional.

For Petitioner	Mr.R.Venkatraman Senior Counsel for Mr.S.Balamurugan
For Respondents	Mrs.S.Mythreye Chandru Special Government Pleader for R1 to R4 and R6
	Mr.S.Rajesh Government Advocate for R5

COMMON ORDER

The petitioner is the President of Bodipatti Village Panchayat. The petitioner has challenged the impugned notice issued by the 1st respondent through proceedings dated 26.04.2023, initiated u/s.205 of the Panchayats Act, 1994 [hereinafter referred to as 'the Act'] in WP.No.15142 of 2023. The second writ petition has been filed in WP.No.15773 of 2023,



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challenging the impugned proceedings of the District Collector (2nd respondent), dated 04.05.2023, removing the petitioner from the Post of President of the Village Panchayat in exercising powers u/s 205(11) of the Act.

2.The case of the petitioner is that he was elected as the President of the Village Panchayat during December 2020. It is stated that there are totally 12 wards which comes under the above said Village Panchayat. The District Collector issued a show cause notice dated 06.01.2023 u/s 205(1) of the Act by levelling 16 charges against the petitioner. The petitioner gave an explanation dated 31.01.2023 for the show cause notice and denied all the charges. The District Collector called for further explanation from the petitioner and the petitioner also gave his further explanation dated 03.03.2023 and explained the various expenditures that were incurred by the Panchayat during the relevant point of time and supporting materials were also sent along with the reply.

3.The petitioner was served with the impugned notice dated 26.04.2023 by the District Collector calling upon the petitioner to explain as to why he should not be removed from the post of President of the Village Panchayat. This notice was put to challenge in WP.No.15142 of 2023 and this writ petition was filed on 09.05.2023. By the time this writ petition was filed, the impugned order dated 04.05.2023, came to be passed by the District Collector removing the petitioner from the post of President of the Village Panchayat. This order was served on the petitioner on 12.05.2023 and the subsequent writ petition in WP.No.15773 of 2023, came to be filed on 18.5.2023.



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4. Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

5. The learned Senior Counsel appearing on behalf of the petitioner apart from arguing the case on merits, also pointed out to the non-compliance of the mandatory procedure as stipulated u/s 205 of the Act. The learned Senior Counsel submitted that the entire proceedings of the District Collector was done in a haste. To substantiate the said submission, the learned Senior Counsel submitted that the District Collector did not record any reasons in writing for arriving at the conclusion and if in case any such reasons were recorded, it was not furnished to the petitioner. That apart, the learned Senior Counsel also pointed out to the fact that the 6th respondent did not give 7 clear days notice before convening the meeting of the Panchayat as mandated u/s 205(4) of the Act. According to the learned Senior Counsel, the 4th respondent had issued notice dated 17.04.2023 and the members were served with notice only on 18.04.2023 and whereas the meeting was held on 24.04.2023.

6. The learned Senior Counsel also pointed out to the fact that the District Collector had pointed out to the defective inspection report as per the special audit which became the basis for the initiation of the proceedings against the petitioner and those materials were never furnished to the petitioner and hence, the petitioner was not able to effectively give his explanation. That apart, it was further pointed out that the majority of the members had



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voted in favour of the petitioner and they were not in favour of removing the petitioner from the post of President and inspite of the same, the District Collector had come to a different conclusion and the reason for arriving at such a conclusion is also not pointed out in the impugned proceedings dated 04.05.2023. Thus, the learned Senior Counsel pointed out all these procedural irregularities and submitted that the impugned proceedings of the District Collector dated 04.05.2023, is liable to be interfered by this Court on these grounds alone.

7.Per contra, the learned Special Government Pleader appearing on behalf of the respondents 1 to 4 and 6 submitted that the present case involves large scale misappropriation committed by the petitioner in his capacity as the Village Panchayat President. The learned Special Government Pleader by pointing out to the impugned proceedings dated 04.05.2023, submitted that the District Collector had listed various facts leading to the misappropriation and since the explanation given by the petitioner was not satisfactory, the District Collector had arrived at a correct conclusion u/s 205(11) of the Act. The learned Special Government Pleader submitted that the present writ petition is not maintainable since there is an alternative remedy of appeal to the Government and the petitioner has not chosen to file any appeal before the Government. In view of the same, the learned Special Government Pleader sought for the dismissal of the writ petition.

8.The learned Government Advocate appearing on behalf of the Block Development Officer adopted the submissions of the learned Special Government Pleader and submitted that the impugned proceedings of the District Collector does not suffer from any illegality.



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9.The learned Senior Counsel appearing on behalf of the petitioner in reply to the above submissions pointed out to the judgment of the Full Bench in ***District Collector and Inspector of District Panchayat .v. Devi Parasuraman*** reported in ***2009 4 CTC 609*** and submitted that the test that has been applied by the Full Bench has not been complied with in the present case. The learned Senior Counsel also relied upon the judgment of the Division Bench in ***K.Ramalingam .v. The Secretary to Government and Others*** reported in ***2011 2 CTC 134***, to substantiate his submission that the excess expenditure incurred by the President will not attract the provisions of 205(1) of the Act.

10.This Court has carefully considered the submissions made on either side and the materials available on record.

11.It is not necessary for this Court to go into the merits of the case and deal with the issue as to whether there was any justification for the petitioner to incur additional expenditure that was pointed out by the District Collector and it will suffice to focus on the procedural irregularities that were pointed out to the Court and see if the impugned proceedings of the District Collector suffers from those irregularities warranting the interference of this Court.

12.Before going into the irregularities pointed out by the learned Senior Counsel for the petitioner, it will be beneficial to take note of the Full Bench judgment of this Court



referred supra. For proper appreciation, the relevant portion of the Full Bench judgment is extracted hereunder:

"17.In the light of the discussions made above, we summarise our views as follows:

- (i) An act of the Inspector under Section 205 is quasi-judicial in nature;*
- (ii) If the Inspector is satisfied with the explanation submitted by the President under Section 205, he is required to record his satisfaction for dropping the proceeding; and*
- (iii) If the Inspector differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President intimating the reasons for difference and can issue notification only on consideration of cause, if any, shown by the President."*

13.It is clear from the above that the nature of power that is exercised by the Inspector of Panchayat u/s 205 of the Act is quasi-judicial in nature. The District Collector has to keep in mind the fact that the removal of an elected representative involves serious consequences and it cannot be treated akin to removal of a Government employee.



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Resorting to the removal of the elected President must take place only in extreme cases and such removal cannot happen at the fall of the hat. This is the reason why Section 205 of the Act prescribes mandatory procedure to be followed to ensure that the removal is done in a proper manner. If there is violation of any of the mandatory procedure prescribed under the Act, that itself will become a ground for interfering with the removal and in such a scenario, there will be no requirement for the Court even to go into the merits of the case.

14. In the instant case, the sum and substance of the allegation against the petitioner is that he had incurred additional expenditure and this seems to have been pointed out in the special audit report. The District Collector had placed reliance upon the special audit report and unfortunately a copy of the same has not been furnished to the petitioner. Therefore, to that extent, the petitioner was denied an opportunity to make an effective explanation. That apart, the very convening of the meeting by the Tahsildar to ascertain the views of the Panchayat members, suffers from illegality. Section 205(4) of the Act makes it mandatory to give 7 clear days notice. In the instant case, the notice was given to the members on 18.04.2023 and whereas the meeting was conducted on 24.04.2023 and the same is in violation of the mandate u/s 205(4) of the Act.

15. Even when the meeting was convened, out of the 12 ward members, except 2, all the other 10 members were not in favour of the removal of the petitioner from his post as the President of the Panchayat. After such a result, if at all, the District Collector differs with the views expressed by the Village Panchayat and he decides to remove the petitioner from



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his post as the President of the Village Panchayat, the District Collector is expected to record the reasons for differing with the views of the Village Panchayat and is mandated to provide further notice to the petitioner intimating the reasons for his decision and only after receiving the explanation of the petitioner, the District Collector can proceed further to come to a final conclusion. This mandate prescribed by the Full Bench in the judgment referred supra has not been followed by the District Collector.

16.The above infractions pointed out clearly vitiates the proceedings of the District Collector dated 04.05.2023 and the same is liable to be interfered by this Court. Insofar as the writ petition challenging the impugned notice dated 26.04.2023 is concerned, WP.No.15142 of 2023 has become infructuous since the subsequent order has been passed and it has been made a subject matter of challenge in WP.No.15773 of 2023.

17.In the light of the above discussion, this Court has absolutely no hesitation to interfere with the impugned proceedings of the Inspector of Panchayat/District Collector, Tiruppur District dated 04.05.2023 and the consequential Gazette notification dated 12.5.2023 and the same is hereby set aside. The matter is remanded back to the file of the Inspector of Panchayat/District Collector, Tiruppur District and this Court expects the District Collector to strictly follow with the procedure as contemplated u/s 205 of the Act and also the dictum of the Full Bench in ***Devi Parasuraman*** case referred supra and thereafter, come to a conclusion strictly in accordance with law.



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18.In the result, WP.No.15142 of 2023 is closed and WP.No.15773 of 2023 is allowed in the above terms. No costs. Consequently, connected miscellaneous petitions are closed.

05.06.2023

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Internet : Yes/No

Index : Yes/No

Neutral Citation :Yes/No

To

- 1.The State of Tamilnadu
Rep.by the Principal Secretary to Government
Rural Development and Panchayat Raj Department
Fort St.George, Secretariat
Chennai-600 009.
- 2.The Inspector of Panchayat/District Collector
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- 6.The Tahsildar
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N.ANAND VENKATESH, J.

KP

Common Order in WP.Nos.15142 & 15773/2023

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