



Writ Petition No.17428 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.06.2023

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.17428 of 2023

and

W.M.P.Nos.16577 & 16578 of 2023

N.Mahalingam
S/o.Natarajan

...Petitioner

Vs

1.The District Collector/Inspector of
Village Panchayat,
Nagapattinam District,
Nagapattinam.

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

3.The Assistant Director (Panchayat),
Nagapattinam District,
Nagapattinam.

4.The Tahsildar,
Kilvelur,
Nagapattinam District.

5.The Village Secretary,
Vizhundhamavadi Village Panchayat,
Vizhundhamavadi,
Nagapattinam District.

... Respondents



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PRAYER : Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari calling for the records of the first respondent in issuance of the impugned order dated 29.05.2023 passed by the first respondent - District Collector/Inspector of Village Panchayat, Nagapattinam District in proceeding No.Na.Ka.1523/2023/A3 VU.E(vu) and quash the same as illegal, unconstitutional and unsustainable in law.

For Petitioner : Mr.R.Srinivas, Senior Counsel
for Mr.S.Sithirai Anandam

For Respondents : Mr.C.Selvaraj
Additional Government Pleader
[R1, R3 & R4]
Mr.K.Karthik Jeganath
Government Advocate [R2 & R5]

ORDER

This writ petition has been filed by the President of Vizhundhamavadi Village Panchayat challenging the impugned proceedings of the first respondent, dated 29.05.2023, directing the second respondent to convene the meeting of the Panchayat and to take necessary decisions.

2. Heard Mr.R.Srinivas, learned Senior Counsel appearing for the petitioner, Mr.C.Selvaraj, learned Additional Government Pleader appearing for respondents 1, 3 and 4 and Mr.K.Karthik Jeganath, learned Government Advocate appearing for respondents 2 and 5.



3. On hearing learned counsel on either side, it is seen that the petitioner, who is the President of the Vizhundhamavadi Village Panchayat was arrested and remanded to judicial custody in the course of investigation in Crime No.131/2023. The petitioner was arrested on 09.05.2023 and he has already filed a bail application and it is brought to the notice of this Court that the bail application was heard finally today and posted for orders on 14.06.2023.

4. In the mean time, the first respondent, through proceedings dated 29.05.2023 has directed the Block Development Officer to convene a meeting. Since the function of the President is not able to be performed for the reason that the President was arrested and remanded to judicial custody for more than 30 days, Section 47(2) of the Tamil Nadu Panchayat Act, 1994 [for brevity 'the Act'] automatically comes into force. Hence, the Vice President has to take over the functions of the President to ensure that the Panchayat does not suffer due to the absence of the President to take important decisions. The grievance of the petitioner seems to be that instead of the Vice President, the Block Development Officer has been directed by the District Collector to conduct a meeting and the Vice President has been sidelined.



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5. Learned Government Advocate appearing on behalf of the second respondent submitted that pursuant to the impugned proceedings of the first respondent dated 29.05.2023, a meeting was convened on 09.06.2023 and the Block Development Officer had merely asked the opinion of the members of the Panchayat as to their future course of action. Learned Government Advocate submitted that the Block Development Officer was not authorised to run the Panchayat in the place of the President and the meeting was only confined to know the views of the members of the Panchayat as to how they are going to run the Panchayat in the absence of the President. Learned Government Advocate further made it clear that insofar as the no confidence motion that has been moved against the Vice President, the same will take place independently in accordance with the procedure and till the Vice President is removed, the impugned proceedings of the first respondent does not in any way disregard the functions of the Vice President and it is not replaced by the Block Development Officer.

6. Learned Additional Government Pleader appearing on behalf of the District Collector submitted that even in the impugned proceedings dated 29.05.2023, the first respondent has taken into consideration the fact that 30



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days period has come to an end only on 08.06.2023 and hence, any decision can be taken on the operation of Section 47(2) of the Act/after the expiry of this period. Learned Additional Government Pleader further submitted that the first respondent never intended to replace the elected Vice President with the Block Development Officer and the Block Development Officer was directed to convene the meeting only for the limited purpose of ascertaining the views of the members of the Panchayat.

In the light of the above submissions made by learned Additional Government Pleader and learned Government Advocate appearing for respective respondents, the apprehension raised by the petitioner has been sufficiently taken care of. Hence, recording the same, this Writ Petition is closed. As and when the petitioner is enlarged on bail, it is left open to the petitioner to make his representation before the District Collector and proceed further in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

12.06.2023

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
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To



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N.ANAND VENKATESH, J

gm

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