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WP.Nos.19949 & 19956 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N.SATHISH KUIMAR

WP.Nos.19949 & 19953 of 2023
and W.M.P.Nos.19300, 19301, 19304 & 19305 of 2023

The President
Veeraragavapuram Panchayat
Veeraragavapuram Village
Ikkadu Post, Thiruvallur Panchayat Union & Taluk
Thiruvallur District – 602 021

.. Petitioner in both cases

Versus

1.The District Collector
Thiruvallur District
Thiruvallur

2.The Block Development Officer (Village Panchyat)
Ikkadu Village Post,
Thiruvallur Panchayat Union
Thiruvallur Taluk & District – 602 021

2.D.Vinoth Kumar

.. Respondents in both cases

Common Prayer: Writ Petitions are filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, calling for the records of the first respondent dated 26.05.2023 ending in Na.Ka.No.17555/2022/BD2 and quash the same.



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In both cases

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For Petitioner : Mr.S.Mukunth, Senior Counsel
for Mr.C.S.Kiran

For Respondents : Mr.P.Baladhandayutham for R1
Special Government Pleader
Mr.M.Bindran for R2
Additional Government Pleader

ORDER

These writ petitions have been filed challenging the impugned order passed by the District Collector being the second appellate authority as per the G.O.No.175 dated 05.12.2006, Rural Development & Panchayats (E5) Department

Brief facts leading to filing of this writ petition are as follows:

2. The 3rd respondent, who was working as Overhead Tank Operator with the petitioner Panchayat, was proceeded with disciplinary proceedings for unauthorised long abstention from work, by way of resolution in the District Panchayat by the Executive Officer/petitioner. The disciplinary proceedings has been initiated and the necessary charges have been framed. After the disciplinary proceedings, the third respondent was removed from service. Challenging the same, an appeal has been filed before the District Collector/first respondent.

3. Though, as per the Gover Order referred above, only the Block



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Development Officer is the first appellate authority, the fact remains that appeal has been filed before the second appellate authority namely the District Collector. In the meanwhile, a writ petition in W.P.No.14721 of 2022 has been filed to consider and dispose of the appeal filed by the petitioner/third respondent before the first respondent. This Court vide Order dated 15.06.2022 directed the first respondent/District Collector to dispose of the appeal and reinstate the third respondent into service. Challenging the same, the petitioner/Panchayat filed Writ Appeal in W.A.Nos.2580 & 2573 of 2022, wherein, this Court in para 6 and 7 has held as follows:

"... 6.It is true that the District Collector is an appellate authority and he has not passed any formal orders disposing of the appeals preferred by Vinothkumar and Thiruveedhi. There appears to be some force in the submission of the learned Senior Counsel appearing for the Panchayat President that without giving an opportunity to the Panchayat President and her husband, they cannot be condemned, especially, in the light of the fact that Murugan is not a party in the writ petitions.

7.In such view of the matter, we are inclined to issue the following directions:

i.the District Collector, Thiruvallur, shall dispose of the appeals dated 14.12.2021 filed by Vinothkumar and Thiruveedhi within a period of four weeks from the date of receipt of a copy of this order;

ii.if, during the course of enquiry, the District Collector, Thiruvallur, finds that there are incriminating materials against the Panchayat President and her husband, separate action may be initiated against them in accordance with law."

Pursuant to the above directions, now the impugned order came to

be passed by the District Collector.



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4. Heard both sides and perused the materials placed on record.

5. On perusal of the impugned order passed by the District Collector, this Court is of the view that such order cannot be sustained in the eye of law for the simple reason that it is not a speaking order, he has just extracted the directions of this Court in writ petition as well as the writ appeal and ordered reinstatement with backwages, no findings whatsoever recorded as to how he has taken different view with the disciplinary proceedings, no discussion whatsoever made in this regard. The entire order does not reflect that any file has been perused by the disciplinary authority to take such a decision. Therefore, in the absence of any speaking order, this Court is of the view that such order is nothing but non-est in law.

6. Such view of the matter, the impugned order is set aside and the matter is remanded back to the District Collector for a *de novo* consideration as per the Government Order referred above. Since, this Court already directed the District Collector to dispose of the appeal, the first respondent / District Collector shall pass appropriate orders on merits, in appeal, after perusing the entire materials including all the disciplinary proceedings and the records



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connected thereof within a period of three months from the date of receipt of a
copy of this Order.

7. Accordingly, these writ petitions are disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

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dhk

Index:Yes/No

Internet: Yes/No

To

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N.SATHISH KUMAR, J.



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