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W.P.No.19626 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P.No.19626 of 2023

and

WMP.No.18884 of 2023

S.Manivannan

...Petitioner

Vs.

1.The State Rep.by
The District Collector and Inspector of Panchayats
Cuddalore District New Collectorate Building
Manjakuppam
Cuddalore 607 001.

2.The Assistant Director
Rural Development and Panchayat Raj
Cuddalore District
Cuddalore 607 001.

3.The Block Development Officer
Kurinjpadi Panchayat Union
Kurinjpadi
Cuddalore District
Cuddalore 607 001.

4.The Thasildar cum Executive Magistrate
O/o.Thasildar Office
Kurinjpadi
Cuddalore 607 001.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for records of the first respondent proceedings bearing No.Na.Ka.En.A2/0568/2021, dated 08.05.2023 and consequential proceedings of the third respondent bearing Na.Ka.En.AA3/2006/2021, dated 10.05.2023 and proceedings of the fourth respondent bearing No.Na.Ka.A2/1629/2023, dated 14.06.2023 and proceedings bearing No.Na.Ka.A2/1629/2023, dated 22.06.2023 and to quash the same as illegal and contrary to the Section 205 of the Tamil Nadu Panchayats Act, 1994 and consequently direct the respondents not to disturb the petitioner to discharge his duty as a President in Puliur Panchayat, Kurinjipadi Taluk, Cuddalore District.

For Petitioner : Mr.R.Thirumoorthy

For Respondents : Mr.S.Silambannan
Additional Advocate General
Assisted by
Mrs.S.Anitha for R1, R2 & R4
Special Government Pleader

Mr.K.Tamilvendan for R3
Government Advocate



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ORDER

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The petitioner herein filed this Writ Petition challenging the order passed by the second respondent dated 08.05.2023.

2. The impugned proceedings is the one initiated under Section 205 of the Panchayats Act seeking explanation from the petitioner on various allegations made against him. Under Section 205 of the Panchayats Act, it is the first respondent, who is the Competent Authority to initiate the proceedings against the President of the Panchayat. However, in the case on hand, a reading of the impugned order dated 08.05.2023 would suggest that the impugned show cause notice was issued in the name of the second respondent. Therefore, the learned counsel for the petitioner submitted that the impugned show cause notice is issued by an Authority who is not Competent to the issue same, therefore, it is liable to be set aside.

3. Mr.S.Silambannan, learned Additional Advocate General, assisted by Mrs.S.Anitha, learned Special Government Pleader for the respondents 1, 2 & 4 and Mr.K.Tamilvendan, learned Government Advocate for the third respondent, on instructions, submitted that impugned order dated



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08.05.2023 was signed by the first respondent Inspector of Panchayat and therefore, the ground of jurisdiction raised by the petitioner is not available to him.

4. A perusal of the impugned order would suggest that the proceedings was prepared by the second respondent. However, it is simply to said have been signed by the first respondent. When the first respondent initiated proceedings for removal of the President under Section 205 of the Panchayats Act, there must be an application of mind on the allegations made against the petitioner. On the other hand, in the impugned order, the entire proceedings was prepared in the office of the second respondent. However, it is simply said to have been signed by the first respondent. A reading of impugned order does not reflect satisfaction of first respondent as to wilful omission or refusal to carryout provision of the Act by President. The first page of the order only indicates proceedings of second respondent. The satisfaction of second respondent cannot be treated as satisfaction of first respondent. Therefore, the impugned notice is liable to be set aside and accordingly this Writ Petition is allowed.



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5. However, allowing this Writ Petition will not prevent the first respondent from issuing fresh show cause notice under Section 205 of the Panchayats Act, if situation warrants initiation of such proceedings.

6. With the above observations, this Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petition is closed.

24.07.2023

Index : Yes
Internet : Yes
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes
dna

To

1.The District Collector and Inspector of Panchayats
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Cuddalore 607 001.

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S.SOUNTHAR, J.
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4.The Thasildar cum Executive Magistrate
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