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W.P.No.19841 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :01.08.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.19841 of 2023 and
W.M.P.Nos.19185, 19186 of 2023

G.Geetha

...Petitioner

Vs.

1.The District Collector
Collector Office,
Bangalore Main Road,
Krishnagiri,
Krishnagiri District.

2.Deputy Director
Panchayat and Rural Development
Collector Office,
Krishnagiri

3.The Block Development Officer,
Kaveripattinam union,
Kaveripattinam,
Krishnagiri District.

..Respondents.

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari calling for the records of the 1st respondent in connection with the impugned order bearing Ref.No.Na.KaNo.3340/2022/A3 dated 29.12.2022 and quash the same.



W.P.No.19841 of 2022

For Petitioner : Mr.K.P.Mohan Balaji
for M.D.Thirunavukkarasu

For Respondents 1 & 2 : Mrs.S.Anitha
Special Government Pleader

For Respondent 3 : Mr.V.Nanmaran
Additional Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 1st respondent withdrawing the cheque signing power of the writ petitioner, who is the President of a Village Panchayat.

2. It is the case of the petitioner that she is the elected President of Kottapatti panchayat, Krishnagiri District. It is also stated by the petitioner that due to non co-operation of the Vice President and other members, she found it very difficult to carry out the developmental activities of the Village Panchayat. The petitioner submitted several representations to the 1st respondent to conduct enquiry and pass necessary orders for resolution of the dispute. The 1st respondent, on the basis of the report submitted by 3rd respondent found that there was non co-operation by the Vice President of the panchayat and consequently the developmental activities in the panchayat are affected. After



giving such findings, the 1st respondent proceeded to pass order under Section 203 of Panchayat Act by invoking emergency powers.

3. By impugned order, the cheque signing power of the petitioner has been withdrawn and the 3rd respondent has been authorized to sign the cheques. The learned counsel for the petitioner by taking this Court to the impugned order passed by the 1st respondent submitted that the 1st respondent himself found that the developmental activities in the panchayat got affected due to non co-operation by the Vice President. In such case, the 1st respondent ought to have proceeded under Section 204(3) of Panchayat Act instead of invoking emergency powers under Section 203 of Panchayat Act and withdrawing cheque signing power of the President.

4. The learned Special Government Pleader for the respondents 1 and 2 submitted that on the basis of the report submitted by the 3rd respondent, an enquiry was conducted by the Personal Assistant of the 1st respondent, he formed an opinion about non co-operation of the Vice President and other members of the panchayat. The petitioner failed to get along with his work by



taking all the members of panchayat into confidence. Therefore, the 1st respondent decided to invoke emergency powers to authorize the 3rd respondent to exercise cheque signing power available to the President. The learned Special Government Pleader also submits that the impugned order has been passed by taking into consideration the welfare of the panchayat.

5. A perusal of the impugned order makes it clear that based on the reports submitted by 3rd respondent, the 1st respondent came to a definite conclusion that the developmental activities in the panchayat got affected due to non-co-operation of the Vice President of the panchayat. In such case, Section 204(3) of Panchayat Act, 1994 provides a solution.

Section 204(3) of the Tamil Nadu Panchayat Act, 1994 which reads as follows:-

204. Power to take action in default of a Village Panchayat, President or Executive Authority, etc.

“(3) If on a representation in writing made by the President, the Inspector is satisfied that due to the non-co-operation of the members with the President, the Village Panchayat is not able to function, the Inspector



may, by notification, authorize the President to perform, subject to the control of the Inspector, such of the duties imposed upon the Village Panchayat by law and for such period not exceeding six months as may be specified in such notification. During the period for which the President is so authorised, there shall be no meeting of the Village Panchayat”.

6. A reading of the above provision make it clear that in case the 1st respondent comes to a conclusion that the Village Panchayat is not able to function due to non-co-operation of members with the President, he, by notification, authorize the President to perform such of the duties imposed upon the Village Panchayat by law for a period not exceeding six months.

7. In the case on hand, in the impugned order there is a clear finding by the 1st respondent that developmental activities in the panchayat is affected due to non co-operation of the Vice President. There is no adverse findings against the President. In such cases, the 1st respondent is not justified in passing the impugned order withdrawing the cheque signing power available to the President. In case, the Vice President failed to co-operate with the President



under Section 188(3) of Panchayat Act, the Village Panchayat is empowered to authorize any other member to sign the cheque along with president. Therefore, the 1st respondent could have recommended the village panchayat to take action under Section 188(3) of Panchayat Act for authorizing any other member to sign the cheque along with the President.

8. Alternatively, the Inspector could have exercised power under Section 204(3) of the Panchayat Act authorizing the President to perform such of the powers vested with Panchayat. Instead, in the case on hand, the 1st respondent has chosen to withdraw the cheque signing power conferred on President under Section 188(3) of the Panchayat Act even without any adverse findings against him. This Court in *Logeswari Vs The District Collector* reported in **2013 (2) CTC 846** held that cheque signing power available to President of Panchayat is a Statutory Power conferred by Section 188(3) of Panchayat Act and the same cannot be withdrawn, in the absence of enabling provision, by resorting to Section 203 of Panchayat Act. The relevant observation of this Court reads as follows:-

“21. The Collectors are very often exercising this



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W.P.No.19841 of 2022

power to take away the cheque signing powers of the President and Vice President. The power to sign cheque is a statutory power conferred on the President and Vice President under Sub-Section (3) of Section 188 of the Act. The President and the Vice President are under the general control of the village panchayat. The statutory power given to the President of the Panchayat or Vice President cannot be taken away by the Inspector of Panchayat, by exercising the emergency powers. Since the cheque signing facility is given by the statute, there should be a specific power conferred upon the Inspector of Panchayats to take away such power. So long as there are no specific provisions to take away the cheque signing power of the President or Vice President, the Collector cannot invoke incidental or emergent powers to divest the elected representatives of their statutory right”.

9. Therefore, the impugned order is liable to be set aside. It is open to the 1st respondent to exercise other options available under law in case the developmental activities of the panchayat are affected due to non-co-operation of Vice President.



W.P.No.19841 of 2023

WEB COPY

10. With these observations, this writ petition is allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

01.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation Case : Yes/No
nr

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8/9



WEB COPY



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