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W.P.No.20889 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2023

CORAM

THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.20889 of 2023
and W.M.P.No.20255 of 2023

Kalaiarasi Subramaniyan

... Petitioner

VS.

1.The District Collector-cum-Inspector of Panchayat
Cuddalore District.

2.The Assistant Director (Audit)
Virudhachalam Division
Cuddalore District.

3.The Block Development Officer (Village Panchayat)
Mangalore Panchayat Union
Mangalore
Cuddalore District.

4.The Deputy Block Development Officer
Mangalore Panchayat Union
Mangalore
Cuddalore District.

5.R.Selvarani

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire



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records relating to the proceedings of the first respondent in Na.Ka.No.A1/0842/2021 dated 04.05.2022, quash the same and consequently direct the first respondent to restore the cheque signing power of the Petitioner as President of the Village Panchayat.

For Petitioner : Mr.M.Elumalai

For R1 and R2 : Mr.N.Naveenkumar
Government Advocate

For R3 and R4 : Mrs.S.Mythreye Chandru
Special Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 1st respondent withdrawing the cheque signing power available to the petitioner, President of the Village Panchayat and consequently authorising the Block Development Officer (Village Panchayat) and Zonal Deputy Block Development Officer to sign the cheque instead of President and Vice President.

2. The learned counsel for the petitioner assails the impugned order mainly on the ground that the 1st respondent is not entitled to withdraw the cheque signing power available to the President of Village Panchayat by resorting to emergency power under Section 203 of the Tamil Nadu



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Panchayats Act, 1994. The learned counsel further submitted that the impugned order has been passed violating the natural justice principles and without affording any opportunity to the petitioner.

3. Mr.N.Naveenkumar, learned Government Advocate appearing for the respondents 1 and 2 by taking this Court to the counter affidavit filed by the 2nd respondent submitted that on receipt of complaint by the petitioner regarding non-cooperation of the Vice President, an enquiry was conducted on 17.12.2021 and both the Petitioner/President and Vice President of the Avinankudi Village Panchayat agreed to cooperate and jointly sign the cheques. However, they failed to cooperate for smooth administration and therefore, in order to meet the day-to-day expenses of the Panchayat, the 1st respondent was constrained to pass impugned order. The learned Government Advocate further submitted that under Section 203 of the Tamil Nadu Panchayats Act, 1994, the 1st respondent is vested with power to empower to Block Development Officer to operate all the accounts of the Village Panchayat.



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4. Under Section 188(3) of Tamil Nadu Panchayats Act, 1994, the President and Vice President of Village Panchayat are authorised to sign the cheques for withdrawing the funds of the Panchayat. It is a statutory power conferred on the President and Vice President. Therefore, the same can be withdrawn only as per the procedure contemplated under the statute. Section 188(3) of the Tamil Nadu Panchayats Act, 1994, reads as follows:-

“188 (3). Subject to such general control as the Village Panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund shall be signed jointly by the President and Vice-President and in the absence of the President or Vice-President, as the case may be, by the Vice-President or the President and another member authorised by the Village Panchayat at a meeting in this behalf.”

5. A reading of the above provision would suggest in the absence of President or Vice President, as the case may be, the Village Panchayat may pass a resolution authorising any other member of the Panchayat to sign the cheques.

6. Under Section 204(3) of the Tamil Nadu Panchayats Act, 1994, in case of non-co-operation of the Members of the Village Panchayat with President, the 1st respondent is empowered to authorise the President to



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perform, subject to the control of the Inspector, such of the duties imposed upon the Village Panchayat by law. Therefore, the statutory power to sign the cheques available to the petitioner in his capacity as Village Panchayat President cannot be taken away by the 1st respondent by resorting to emergency power under Section 203 of the Tamil Nadu Panchayats Act, 1994. The said view was taken by this Court in ***Logeswari vs. The District Collector, Tiruchirappalli*** reported in ***2013 (2) CTC 846*** wherein it is held as follows:-

“21. The Collectors are very often exercising this 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.



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Declaration of Law:

25. The law is, therefore, clear that the District Collector has no power under Section 203 of the Panchayat Act to take away the cheque signing power of the President and the Vice-President.”

7. In view of the law laid down in the above mentioned case law, it is clear that the 1st respondent is not entitled to resort to emergency power under Section 203 of the Tamil Nadu Panchayats Act, 1994 to withdraw the statutory power available to the petitioner under Section 188(3) of the Tamil Nadu Panchayats Act, 1994. Therefore, the impugned order is liable to be set aside and accordingly, the writ petition is allowed by setting aside the impugned order.

8. The learned counsel for the petitioner submitted that the Avinankudi Village Panchayat passed a resolution on 24.06.2022 authorising one Ilakkiya, Member of the Panchayat to sign the PFMS Form in the place of Vice President.

9. In view of the said position, it is open to the 1st respondent to



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consider the resolution passed by the Avinankudi Village Panchayat and pass appropriate orders in the light of the law enunciated in the above said case, within a period of four weeks from the date of receipt of copy of this order. No costs. Consequently, the connected miscellaneous petition is closed.

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Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

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To

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- 2.The Assistant Director (Audit)
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S.SOUNTHAR, J.

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