



W.P.No.23084 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.09.2023

CORAM

THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.23084 of 2023

and

W.M.P.Nos.22619 & 22728 of 2023

P.Raja

...Petitioner

Vs.

- 1.The District Collector
Master Plan Complex
(Collectorate)
Villupuram 605 602.
- 2.The Block Development Officer
Melmalaiyanur
Panchayat Union
Melmalaiyanur
Villupuram District 604 201.
- 3.The Assistant Director Village Panchayat
Master Plan Complex
(Collectorate)
Villupuram 605 602.
- 4.The Commissioner
Melmalaiyanur
Panchayat Union
Melmalaiyanur
Villupuram District 604 201.

...Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, to call for the records pertaining to impugned notice of the second respondent in Na.Ka.No.A2/1459/2023 dated 05.05.2023 and quash the same.

For Petitioner : Mr.S.Eraskine Leo

For Respondents : Mr.P.Anandha Kumar for R1 & R3
Government Advocate

Mr.B.Vijay for R2 & R4
Additional Government Pleader

ORDER

The petitioner herein challenges the order passed by the second respondent issuing show cause notice to the petitioner to explain why action shall not be taken against him for giving a false information in the affidavit filed by him before the Returning Officer at the time of nomination for conducting election to the post of Panchayat President.

2. The learned counsel for the petitioner submitted that the impugned show cause notice was issued to the petitioner without furnishing the copy of the complaint made against the petitioner. It is the submission of



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the learned counsel for the petitioner that though in the impugned notice it was mentioned that the copy of the complaint and the letter of the District Collector was annexed, no such annexure was received by the petitioner.

3. The learned Government Advocate appearing for the respondents by taking this Court to Rule 26 (2-A) (h) of the Tamil Nadu Panchayats (Elections) Rules, 1995, submitted that the Returning Officer has got power to initiate action against the person who filed a false affidavit at the time of nomination. The learned Government Advocate appearing for the respondents also submitted that in the case on hand, the second respondent was the Returning Officer to conduct an election. Therefore, he has got jurisdiction to issue the present show cause notice.

4. Rule 26 (2-A) (h) of the Tamil Nadu Panchayats (Elections) Rules, 1995, reads as follows:

“(h) In view of the penal provisions contained in Section 177 of the Indian Penal Code, 1860, in case of furnishing of false information by any candidate, if any, confirmed at a later date, the Returning Officer concerned may initiate criminal action against that candidates, after providing reasonable opportunity of hearing and by



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following the procedure contemplated in Section 195 of the Code of Criminal Procedure, 1973.”

5. A reading of above Rule would make it clear that the Returning Officer has got power to initiate appropriate action in case he found that a false information was furnished by the candidates at the time of nomination. In such circumstances, the second respondent is entitled to issue a show cause notice and the same cannot be termed as without jurisdiction.

6. In view of the stand taken by the petitioner that he has not received annexure to the impugned notice, the second respondent is directed to furnish a copy of the complaint based on which, the impugned show cause notice was issued and the letter of the District Collector referred to as annexure to the impugned show cause notice to the petitioner within a period of one week from the date of receipt of copy of this order. The petitioner on receipt of such annexure shall submit his explanation to the second respondent within a period of two weeks thereafter. After submission of the explanation by the petitioner within the time as indicated above, it is open to the second respondent to proceed in accordance with law.



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7. With the above directions, this Writ Petition is disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

01.09.2023

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