



WEB COPY



W.P.No.24712 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.02.2023

CORAM

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P.No.24712 of 2021

and

W.M.P.Nos.26002 and 26003 of 2021

P.Kandhasamy

... Petitioner

Versus

1.The State of Tamilnadu Rep. by
The Secretary to Government,
Rural Development,
Secretariat,
Chennai - 9.

2.The District Collector,
Collectorate,
Coimbatore District,
Coimbatore.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records on the file of the 2nd respondent in connection with the Show Cause Notice issued by him in Na.Ka.No.1921/2021/A3, dated 02.11.2021 and quash the same.

For Petitioner

: Mr.R.Singaravelan, Senior Counsel
for Mr.I.Saddam Hussain

For Respondents

: Mrs.R.Anitha
Special Government Pleader



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ORDER

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This writ petition has been filed challenging the Show Cause Notice issued by the second respondent in Na.Ka.No.1921/2021/A3, dated 02.11.2021 under Section 205 of the Tamil Nadu Panchayats Act, 1994 for the alleged violations committed by the Panchayat President/petitioner.

2. The main contention of the writ petitioner is that only under two contingencies, the proceedings under Section 205 of the Tamil Nadu Panchayats Act, 1994 could be initiated, i.e. one is by way of a *suo-motu* action and another is by a statement of charges given by 2/3rd of the members of the Village Panchayat in writing to the Inspector of Panchayats/District Collector. In this case, the impugned show cause notice has been issued on the basis of the Audit Report. If there is an Audit Report, based on which the present impugned notice has been issued, a copy of the same has to be enclosed along with the impugned notice. It is also mentioned in the impugned notice that a complaint has been given by the Vice President and other members against the petitioner, if that is so, a copy of the complaint has also to be annexed along with the impugned notice. But, the same were not annexed along with the impugned notice. Hence, the impugned show cause notice is liable to be set aside.



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3. Heard the learned counsels appearing on either side and perused the materials available on record.

4. Though various allegations has been made, since it is a show cause notice, this Court is of the view that the show cause notice cannot be set aside unless the person, who issued the same, has no jurisdiction. The Collector, being the Inspector of Panchayats has issued a show cause notice. Such being the position, it is the duty of the respondents to provide an opportunity to the petitioner to give proper explanation. The only grievance that the learned counsel for the petitioner ventilate before this Court at this stage is that the copy of the Audit Report has not been furnished to the petitioner, which is the base for issuance of such show cause notice.

5. In such view of the matter, if the respondents are still want to proceed on the basis of the audit report, the respondents are directed to furnish the copy of the Audit Report dated 01.10.2021 and the copy of the complaint given by the third parties against the petitioner, within a period of fifteen (15) days from the date of receipt of a copy of this order to the petitioner, so that the petitioner



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can give effective reply meeting out all the allegations. Thereafter, the District Collector/Inspector of Panchayats shall decide the issue on its own merits.

6. With the above directions, the writ petition is disposed of. No costs.

Consequently, connected miscellaneous petitions are closed.

07.02.2023

Index : Yes/No
Internet : Yes/No
Speaking order/Non speaking order
rsi

To

1.The Secretary to Government,
Rural Development,
Secretariat,
Chennai - 9.

2.The District Collector,
Collectorate,
Coimbatore District,
Coimbatore.



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N. SATHISH KUMAR, J.

rsi

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