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W.P.No.24039 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2023

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THE HONOURABLE MR. JUSTICE S.SOUNTHAR

W.P No.24039 of 2023
and W.MP. No.23529 of 2023

V. Jayalakshmi

...Petitioner

Vs.

1.The District Collector,
District Collector Office,
Tiruvanamalai District.

2.The Block Development Officer,
(Village Panchayat),
Chengam Panchayat Union& Taluk,
Tiruvanamalai District.

..Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, calling for records on the file of the 1st respondent relating to the order issued by him in Na.Ka.No.3840/2022/OE/Oo/Thi. Ko dated 31.07.2023 and quash the same.

For Petitioner

: Mr. T. Panchatsaram



WEB COPY



W.P.No.24039 of 2022

For Respondent 1 : Mrs. S. Anitha,
Special Government Pleader

For respondent 2 : Mrs. C. Sangamithirai,
Special Government Pleader

ORDER

The writ petition is filed challenging the order passed by the 1st respondent withdrawing the cheque signing power of the petitioner who is a President of the panchayat and conferring such powers to the 2nd respondent.

2. The learned counsel for the petitioner submitted that cheque signing power available to the President of the panchayat under Section 188(3) of Tamil Nadu Panchayat Act, 1994 is a statutory power and the same cannot be taken away by the 1st respondent except as provided by the statute. The learned counsel further submitted that when there is no enabling provision in the Tamil Nadu Panchayat Act empowering 1st respondent to take away the cheque signing power of the petitioner, the impugned order passed by the 1st respondent is unsustainable in law.



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3. Mrs.S.Anitha, learned Special Government Pleader appearing for the 1st respondent and Mrs.C.Sangamithirai, the learned Special Government Pleader appearing for 2nd respondent submitted that during the course of inspection, certain irregularities in handling the funds meant for Rural Employment Scheme was deducted and hence a notice was issued to the petitioner under Section 205 of Panchayat Act calling for his explanation. The explanation submitted by the petitioner was not satisfactory and consequently, the impugned order has been passed by the 1st respondent.

4. Section 188(3) of the Tamil Nadu Panchayat Act, 1994 reads as follows;

“(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 make it clear that the power to withdraw funds from the village panchayat fund is vested with President and Vice President of the panchayat jointly. They have to sign the cheques jointly and withdraw the funds for developmental activities of the panchayat. In case of absence of President or Vice president as the case may be, the village panchayat may authorize any other member of the panchayat to sign the cheque on their behalf. Therefore, there is no enabling provision in the Panchayat Act empowering the 1st respondent to withdraw the cheque signing power available to the elected President or Vice president of the panchayat. The same can be taken away only based on the resolution passed by the panchayat under Section 188(3) of Panchayat Act that too under the circumstances mentioned therein.

6. The law in this regard is very well settled in the case of *1)Logeshwari vs. The District Collector, Tiruchirappalli reported in 2013 (2) CTC 846 2011 2) N.Pachaiyammal vs. The District Collector, Villupuram in W.P.No.20046 of 2023 dated 14.07.2023*. In Logeshwari case, the relevant observation of this Court reads as follows:-



WEB COPY



W.P.No.24039 of 2023

“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 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”.

7. The law laid down in the case of **Logeshwari vs. The District Collector, Tiruchirappalli** has been followed by me in **N.Pachaiyammal vs. The District Collector, Villupuram** in W.P.No.20046 of 2023 dated 14.07.2023.” reported in **2023 4 LW 264**.



W.P.No.24039 of 2023

8. The above said case laws are squarely applicable to the facts of the present case. When there is no enabling provision in the panchayat Act empowering 1st respondent to withdraw cheque signing power of the petitioner, the impugned order cannot be sustained. Therefore, the impugned order passed by the 1st respondent withdrawing such power is not sustainable and consequently the same is liable to be set aside.

9. Accordingly, the writ petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.

10. The allowing of this writ petition will not preclude the 1st respondent taking any action against the petitioner under Section 205 of Tamil Nadu Panchayat Act, 1994.

11.09.2023

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



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To

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WEB COPY



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S.SOUNTHAR, J.
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