



W.P.No.24920 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2023

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THE HONOURABLE MR.JUSTICE S.SOUNTHAR

W.P.No.24920 of 2023
and WMP.Nos.24345 and 24347 of 2023

Durgadevi Venkatesan,
Panchayat President,
Palayanur Village Panchayat,
Palayanur Village and Post,
Tiruvannamalai.

... Petitioner

VS.

1.The District Collector,
Thiruvannamalai District.

2.The Assistant Director of Panchayat,
Thiruvannamalai District,
Thiruvannamalai.

3.The Block Development Officer (Village Panchayats),
Thiruvannamalai Block,
Thiruvannamalai.

4.Thiru Maria Dev Anand,
Block Development Officer,
Thiruvannamalai Block,
Thiruvannamalai.

... Respondents



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PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the proceedings in Se.Mu.No.1587/2020/A2/UE (U)thi.ko dated 24.07.2023 issued by the 1st respondent herein and quash the same.

For Petitioner : Mrs.A.L.Gandhimathi

For Respondents : Mr.N.Naveen Kumar
Government Advocate
for R1 and R2
Mr.C.Selvaraj
Additional Government Pleader
for R3

ORDER

This 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 Panchayat and transferring the same in favour of 4th respondent.

2. The learned counsel appearing for the petitioner assailed the impugned order mainly on the ground that the cheque signing power of President or Vice President of the Panchayat is statutory power conferred on them under Section 188 (3) of the Tamil Nadu Panchayats Act, 1994 and



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the same cannot be withdrawn by the 1st respondent except as provided under the Act. It is further submitted that unless the resolution is passed by the Panchayat authorising a member of the Panchayat to sign the cheques on behalf of the President or Vice President as the case may be, the 1st respondent is not entitled to withdraw the statutory power available to the petitioner.

3. The learned Government Advocate appearing for the 1st respondent submitted that there are allegations of misappropriation of funds by the petitioner and therefore the 1st respondent was constrained to pass impugned order by invoking emergency powers of the Inspector of Panchayat under Section 203 of the Tamil Nadu Panchayats Act, 1994.

4. In support of his contention, the learned Government Advocate appearing for the 1st respondent also relied on the judgment of this Court in ***P.Suganthi Vs. The District Collector cum Inspector of Panchayats, Thoothukudi District***, reported in ***2011 (2) CTC 381***.



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5. 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.”

6. A reading of above provision would make it clear that cheques for payment out from the village Panchayat fund can be jointly signed by President and Vice President in the absence of the President or Vice-President, as the case may be, by another member authorised by the Village Panchayat at a meeting in this behalf. Therefore, the power available to the President or Vice President is statutory power and the same can be taken away only by way of an resolution passed by the Village Panchayat authorising any other member of Panchayat and not by an order of the 1st respondent.



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7. The learned Government Advocate appearing for the 1st respondent is not in a position to point out any enabling provision in Tamil Nadu Panchayats Act, 1994 empowering the 1st respondent to take away the cheque signing power of the President and Vice President and confer the same on the Block Development Officer. Admittedly, in the case on hand, no resolution was passed by the Village Panchayat authorising any other Member of the Panchayat to sign the cheques on behalf of the President or Vice President. The 1st respondent is not justified in passing impugned order withdrawing the cheque signing power and transferring the same to the 4th respondent when there is no enabling provision in the Panchayat Act. 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



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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.”

8. It is also seen from the impugned order, before passing the order withdrawing the cheque signing power of the petitioner, the 1st respondent has not issued any show cause notice to the petitioner affording an opportunity to explain the case.

9. In the impugned order there is a reference about issuance of show cause notice regarding action to be taken against petitioner under Section 205 of Panchayat Act. The impugned order further reads, even though direction was issued to Tahsildar to convene a meeting, there was



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further progress. Hence, it is clear no show cause notice was issued to petitioner regarding proposal to withdraw her cheque signing power.

Therefore, principle of natural justice principles are violated. In ***P.Suganthi case*** cited by learned Government Advocate, the Division Bench of this Court sustained an order withdrawing cheque signing power as show cause notice regarding proposal to withdraw cheque signing power preceded the order. In the case on hand, no such notice was issued to the petitioner regarding proposal to withdraw cheque signing power. The notice issued regarding action to be taken under Section 205 is entirely under different circumstances, because the same will be finally considered by Panchayat before any action is taken against the petitioner. On the other hand withdrawal of cheque signing power is exercised by 1st respondent himself. In such circumstances, it is his duty to inform the petitioner regarding proposed action of withdrawal of cheque signing power and seek her explanation. When there is no specific show cause notice by 1st respondent regarding proposal of withdrawal of cheque signing power, the case law relied on by the learned Government Advocate is not helpful to him to sustain the impugned order.



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10. Reading of impugned order would suggest in pursuance of order passed by the 1st respondent, his Subordinate, namely Tahsildar failed to convene meeting of Panchayat for taking action against the petitioner. In such circumstances, the first respondent instead of pursuing proceedings already initiated against petitioner, is not justified in passing impugned order withdrawing cheque signing power that too without specifically putting petitioner on notice regarding proposed action.

11. It is seen that earlier the 3rd respondent passed an order dated 13.10.2022 directing the bank in which the accounts of the Panchayat are maintained to freeze all the bank accounts. Therefore, the petitioner is prevented from operating the accounts of the Panchayat. In such circumstances, the reasoning given by the 1st respondent for passing impugned order, as if the developmental activities of the Panchayat are staled for the past eight weeks cannot be accepted, when the accounts of Panchayat were already freezed and there is no possibility for the petitioner to withdraw from the Panchayat account and utilise the same for developmental activities. Hence, reasoning found in the impugned order is also not acceptable.



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12. In view of the discussions made earlier, this writ petition stands allowed and the impugned order is quashed. Consequently, connected miscellaneous petitions are closed. No costs.

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Index : Yes/No
Speaking order: Yes/No
Neutral Citation: Yes/No
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S.SOUNTHAR, J.

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To

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Thiruvannamalai District.

2.The Assistant Director of Panchayat,
Thiruvannamalai District,
Thiruvannamalai.

3.The Block Development Officer (Village Panchayats),
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