



WEB COPY



W.P. No. 27253 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.11.2023

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

**W.P. No. 27253 of 2023
and
W.M.P. No. 26681 of 2023**

M.Jeeva

... Petitioner

-VS-

- 1.The Inspector of Panchayats/District Collector
Thiruvannamalai District,
Thiruvannamalai.
- 2.The Assistant Director of Panchayats,
Thiruvannamalai District.
- 3.The Block Development Officer(Village Panchayats)
Polur Panchayat Union,
Polur,
Thiruvannamalai District.

...

Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari calling for the entire records relating to the order passed in Se.mu.No. 545353/2023/A2/உ.இ(உ),திருகோ dated 24.05.2023 on the file of the first respondent and quash the same.

For Petitioner : Mr. L.P.Shanmugasundaram

For Respondents : Mr. S.Arumugam,
Government Advocate (for R1 & R2)



W.P. No. 27253 of 2023

Mr. N.Naveen Kumar (for R3)
ORDER

WEB COPY

Heard Mr. L.P.Shanmugasundaram, Learned Counsel for the Petitioner, Mr. S.Arumugam, Learned Government Advocate appearing for the First and Second Respondents and Mr. N.Naveen Kumar, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has been elected as President of Edapirai Panchayat and as per Section 188(3) of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as 'the Act' for short), she is a joint signatory along with Vice-President to sign cheques of the funds in its bank account. Since the Petitioner was arrested on 31.03.2023 on the charges of receiving illegal gratification for appointment of a person in the Panchayat on compassionate grounds. A meeting of the Panchayat was convened on 27.04.2023 to nominate one of its Ward Members as a joint signatory of the cheques of the funds in its bank account. However, as the Ward Members of the Panchayat were reluctant to confer such powers amongst one of them, the First Respondent by Proceedings in Se. Mu. No. 545353/2023/A2/Vu.E(Voo)-Thi.Ko dated 24.05.2023 nominated the Third Respondent to sign the cheques of the funds in



W.P. No. 27253 of 2023

the bank account of the Panchayat in the place of the Petitioner, which is assailed in this Writ Petition.

3. Learned Counsel for the Petitioner, relying on certain decisions of this Court, vehemently pleads that the powers to sign the cheques conferred on the Petitioner as President of the Panchayat ought not to have been changed by the First Respondent. It must be straightaway pointed out here that on account of the imprisonment of the Petitioner, she was certainly disabled from carrying out her functions as President of the Panchayat. In this regard, Section 188(3) of the Act has to be extracted, which reads as follows:-

“188. Village Panchayat Fund.....[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 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.”

It would be evident from the said legal provision that in the absence of the President or the Vice-President, one of the members of the ward, who has been authorised by the Village Panchayat, would be conferred with the power to sign the cheques. When the Ward Members of the Panchayat at the meeting



W.P. No. 27253 of 2023

convened to nominate one of them as the joint signatory of the cheques in the place of the Petitioner could not arrive at any decision in that regard, the First Respondent was certainly justified in exercising the emergency powers in public interest invoking Section 203 of the Act, which reads as follows:-

“203. Emergency powers of Collector and Inspector.- Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a Panchayat or Executive Authority or Commissioner or Secretary is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the safety of the public and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union (General) Fund or the District Panchayat (General) Fund in priority to any other charges against such Fund except charges for the service of authorised loans.”

In that backdrop, the nomination of the Third Respondent as the signatory of



W.P. No. 27253 of 2023

the cheques of the fund in the bank account of the Panchayat in the impugned order cannot be faulted. In view of the aforesaid legal position, Learned Counsel for the Petitioner submits that since the Petitioner is now released from jail and is available to discharge her duties as President of the Panchayat, she would make a representation to the First Respondent for restoration of her powers. It is needless to add here that if such representation is made, it shall be incumbent upon the First Respondent to duly examine the same and take a reasoned decision on merits and in accordance with law and no view has been expressed by the Court on the merits of the controversy involved in the matter.

In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

06.11.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 08.01.2024.

ns1



WEB COPY



W.P. No. 27253 of 2023

P.D. AUDIKESAVALU, J.

nsI

To

1. The Inspector of Panchayats/District Collector
Thiruvannamalai District,
Thiruvannamalai.
2. The Assistant Director of Panchayats,
Thiruvannamalai District.
3. The Block Development Officer(Village Panchayats)
Polur Panchayat Union,
Polur,
Thiruvannamalai District.

W.P. No. 27253 of 2023

06.11.2023