



WEB COPY



W.P. No. 30336 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2023

CORAM

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

W.P. No. 30336 of 2023

and

W.M.P. Nos. 29919 and 29920 of 2023

K.S.Kothandan

... Petitioner

-VS-

1. The District Collector
Erode.
2. The Deputy Director of Town Panchayat
Office of the Town Panchayat, Erode.
3. The Executive Officer
Kasipalayam Town Panchayat
Kasipalayam.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, to call for the records connected with the Resolution No.89(1)/2023 dated 07.08.2023 passed by the Third Respondent and quash the same and consequently direct the Respondents to allow the Petitioner to attend the ordinary meeting in the Kasipalayam Town Panchayat.



WEB COPY



W.P. No. 30336 of 2023

For Petitioner : Mr. S.Ilamvaludhi
For Respondents : Mr. S.J.Mohamed Sathik, GA (RR1 & 2)
Mr. P.Sanjay Gandhi (R3)

ORDER

Heard Mr. S.Ilamvaludhi, Learned Counsel for the Petitioner, Mr. S.J.Mohamed Sathik, Learned Government Advocate who takes notice for the First and Second Respondents and Mr. P.Sanjay Gandhi, Learned Counsel, who takes notice 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 Member representing Ward No.12 of Kasipalayam Town Panchayat in Erode District and he has been suspended for ordinary meeting by the Council in furtherance to its resolution no. 89(1)/2023 passed at its meeting held on 07.08.2023, which is assailed in this Writ Petition.

3. The suspension of the Petitioner is said to have been made in the exercise of powers of the Council under Rule 160(8) of the Tamil Nadu Urban Local Bodies Rules, 2023(hereinafter referred to as 'the Rules' for short), which reads as follows:-



WEB COPY

160. Procedure to be followed in the meeting.—

....

(8) (i) A member shall be guilty of breach of the rules governing the proceeding of the council, if he,—

(a) uses any objectionable or unparliamentarily words or language in his speech and refuses to withdraw such words or refuses to tender apology as required by the Chairperson. Such part of the speech shall not be recorded in the proceedings of the council meeting;

(b) wilfully disturbs the peaceful and orderly conduct of the meeting;

(c) refuses to obey any order of the Chairperson;

(d) fails to resume his seat when the Chairperson rises from his chair or when he is called upon to do so by the Chairperson;
or

(e) commits any other act or conducts himself in any disorderly manner, which may bring disrepute or discredit to the Council.



WEB COPY

(ii) Where the Chairperson is of opinion that any member is guilty of any breach of order referred to in clause (i), he may order the member to withdraw from the meeting and to be absent for the remainder of the day's proceedings. In case such member is not withdrawing from the meeting, the Chairperson may evict such member from the council hall. The decision of the Chairperson shall be final.

(8) (iii) If any member commits the breach of order referred to in clause (i) for the second or subsequent times, any member or the Chairperson may move a resolution for suspension of the member for any one or two ordinary meetings, and on the resolution being passed by the Council, the member concerned shall be deemed to be suspended as resolved by the Council.

4. The pivotal attack on the impugned order by Learned Counsel for the Petitioner is that in terms of clause (iii) of the said rule, a Member could be suspended for breach of order referred to in clause (i) only for the second or subsequent time, but he has been suspended in the present case at the first instance itself which would vitiate the proceedings.



W.P. No. 30336 of 2023

WEB COPY

5. Despite time granted on 20.10.2023, the Respondents have not filed any Counter-Affidavit disputing the said contention raised. In the absence of any material to show that the incident pursuant to which the impugned resolution passed suspending the Petitioner was not for the first time, it is not be possible to sustain the impugned proceedings, which stands set aside insofar as it has the effect of preventing the Petitioner from attending for two ordinary meetings of the Council.

In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

01.12.2023

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

Maya

To

1. The District Collector
Erode.
2. The Deputy Director of Town Panchayat
Office of the Town Panchayat, Erode.
3. The Executive Officer
Kasipalayam Town Panchayat
Kasipalayam.



WEB COPY



W.P. No. 30336 of 2023

P.D. AUDIKESAVALU, J.

Maya

W.P. No. 30336 of 2023

01.12.2023