



W.P(MD)No.7817 of 2012

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 04.07.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.7817 of 2012
and
M.P.(MD)No.2 of 2012

Muthuraman

... Petitioner

Vs.

1.The Principal Secretary to
Government of Tamil Nadu,
Department of Home,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Pudukkottai.

3.The President,
Kottur Village Panchayat,
Kottur,
Pudukkottai District.

4.The Narchanthupatti Village Panchayat,
Rep. through its President,
Narchanthupatti,
Thirumayam Taluk,
Pudukkottai District.

... Respondents

*(R4 is impleaded vide order dated 10.08.2022
in W.M.P.(MD)No.10009 of 2022 in
W.P.(MD)No.7817 of 2012 by RVJ)*

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Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records relating to the impugned notification of the 2nd respondent in the Pudukkottai District Gazette dated 25.05.1995 and quash the same with regard to delimiting the area from the Narchanthupatty Village Panchayat and in consequence thereby direct the 2nd respondent to pass order to restore the same to its original position prior to the impugned notification.

For Petitioner : Mr.VR.Shanmuganathan

For Respondents : Mrs.K.Chirsty Theboral,
Addl. Government Pleader for R1 & R2.
Mr.J.Anand Kumar,
For Mr.S.Sekar for R4.
No appearance for R3.

ORDER

Heard the learned counsel on either side.

2.The notification issued by the second respondent under Section 4(1)(a) of the Tamil Nadu Panchayats Act, 1994 is under challenge in this writ petition. By the impugned notification, S.F.Nos.273 to 275, 278 to



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284 and 429 of revenue village of Narchanthupatti stood transferred to Kottur Panchayat.

3.In the affidavit filed in support of the writ petition, it has been specifically contended that the procedure set out in Section 4 of the Act was not followed. The District Collector as the Inspector of Panchayats is empowered to exclude from a panchayat village any area comprised therein. The jurisdiction and authority of the District Collector is beyond dispute. But before exercising the said power while issuing notification under Section 4(2)(c) of the Act, the Inspector of Panchayats should give the village panchayat which will be affected by the issue of such a notification, a reasonable opportunity of showing cause against the proposal and shall consider the explanations and objections, if any, of the village panchayat.

4.This provision was considered by the Hon'ble Division of the Madras High Court in the decision reported in **1996 1 MLJ 594 (Grama Sabha of Kaverirajapuram Panchayat Village v. The State of Tamil Nadu)**. The Hon'ble Division Bench held as follows:-



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“6. Sub-section (1) of [Section 4](#) of the Act empowers the Inspector to classify and declare every local area, comprising in a village or villages or any portion of a village or contiguous portions of two or more villages with a population estimated at not less than 500 as a panchayat village for the purposes of the Act. However, he local area which has got a population of less than 500 can be declared as a panchayat village. It must contain a minimum population of 500, it does not matter if it contains even more also. Such a classification and declaration has to be made through a notification specifying the name of such panchayat village.

6.1. Sub-section (2) empowers the Inspector to exclude from an existing panchayat village any area comprised therein to make it a part of another panchayat village, or, to declare it as an independant panchayat village, provided such exclusion of the area from a panchayat village does not result in a panchayat village having a population less than 500. Thus, he has to ensure that even after exclusion of the area from panchayat village the population of the remaining area of a panchayat village is not less than 500. As already pointed out, he can also notify it to be a panchayat village, provided the area so carved cut from an existing panchayat village contains a population not less than 500. In the event



the population is less than 500, it can be included in a contiguous panchayat village. Clause (c) of Sub-section (2) of [Section 4](#) of the Act further provides that the Inspector may, by notification, include a panchayat village with any local area contiguous thereto by appropriate notification. He can cancel or modify the notification issued under Sub-section (1) of [Section 4](#) and can also alter the name of any panchayat village specified in such notification. Thus, a reading of Sub-sections (1) and (2) of [Section 4](#) of the Act discloses that the Inspector has been given ample power to form a panchayat village or to alter its limits and the name, regroup panchayat villages, exclude a local area from a panchayat village and include the same in another panchayat village or form another panchayat village, provided he ensures that the panchayat village has a population of not less than 500.

6.2. The Inspector is required to exercise this power reasonably and on the grounds relevant to the formation of panchayat villages, for the purpose of the Act. Of-course, two conditions are mentioned in Sub-sections (1) and (2) of [Section 4](#) of the Act, for exercise of the power, viz., ensuring the population of not less than 500 in a panchayat village and an area being contiguous and compact. In addition to this, the power has to be exercised keeping in view the convenience of the people residing in a panchayat village and administrative requirements, coupled with special



*circumstances or situations if any prevailing in a local area comprised in a panchayat village. It has also to be borne in mind that the exercise of the power under **Section 4(1)** and (2) of the Act, is intended to serve the purpose of the Act, viz., to make a village panchayat, an institution of self-government for effective implementation of the Rural Development Programmes.*

*6.3. Clause (d) of Sub-section (2) of **Section 4** of the Act prescribes a procedure to be followed by the Inspector that before issuing a notification under Clause (a) or Clause (b) read with Sub-section (1) or under Clause (c), he shall give notice to the village panchayat or village panchayats which may be affected by the issue of such notification, affording reasonable opportunity of showing cause against the notification he proposes to issue under Sub-sections (1) and (2) of **Section 4** of the Act. The rate-payer is also entitled to put forth his objections if any to such proposed notification. However, no rate payer is entitled to individual notice, only the village panchayat or village panchayats which is are going to be effected is/are entitled to notice to show cause against the proposed notification.*

6.4. The word's 'a reasonable opportunity of showing cause against the proposal and shall consider the explanations and objections' occurring in Clause (d) of Sub-



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section (2) of [Section 4](#) of the Act enjoin a duty upon the Inspector not only to afford an opportunity of showing cause to the village Panchayat or Village Panchayats but also afford an opportunity of hearing the village panchayat or village panchayats who file their objections pursuant to the notice sent to them. Though Clause (d) of Sub-section (2) of [Section 4](#) does not, in specific terms, state that an opportunity of hearing should be afforded to the Village Panchayat or Village Panchayats who file their objections, but the expression 'reasonable opportunity' cannot be considered to be complete unless personal hearing is afforded to such Village Panchayat or village panchayats who filed objections. It would not also be difficult to afford to them personal hearing, because the number of village panchayats who are going to be affected in the event of alteration or inclusion or formation of village panchayat will not be many in respect of each proposal."

5.In response to the contentions of the petitioner, counter affidavit as well as status report were filed by the District Collector / Inspector of Panchayats, Pudukottai. No where the assertion of the petitioner has been controverted or contested. The District Collector has not averred that proper notice was issued to Narchanthupatti Village Panchayat or that they were provided an opportunity of personal hearing. I am



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therefore satisfied that the procedural requirements set out in Section 4(2)(d) of the Tamil Nadu Panchayats Act, 1994 were not complied in the instant case. The impugned notification is quashed insofar as the transfer of the petition-mentioned survey numbers to the third respondent is concerned. This writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

04.07.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To:-

1.The Principal Secretary,
Department of Home,
Fort St.George,
Chennai – 600 009.

2.The District Collector,
Pudukkottai.



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G.R.SWAMINATHAN, J.

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