



W.P(MD)Nos.4194 and 8163 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:26.04.2023

CORAM

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P(MD).Nos.4194 and 8163 of 2022
and WMP(MD)Nos.3593, 6084, 4862, 4878, 9149 and 9143 of 2023

V.Marudhamuthu

... Petitioner in both petitions

Vs

1. The District Collector,
Dindigul District.
2. The Assistant Director (Village Panchayat),
Dindigul District.
3. The Block Development Officer (Village Panchayat),
Reddiarchathiram Union, Dindigul District.

... Respondents in WP(MD)No.4194 of 2022

1. The District Collector,
Dindigul District.
2. The Assistant Director (Village Panchayat),
Dindigul District.
3. The Block Development Officer (Village Panchayat),
Reddiarchathiram Union, Dindigul District.



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4. The Zonal Deputy Block Development Officer,
Reddiarchathiram Union,
Dindigul District.

... Respondents in WP(MD)No.8163 of 2022

Prayer in WP(MD)No.4194 of 2022:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the third respondent to hand over the panchayat records to the petitioner i.e. K.Dharmathupatti Grade I village Panchayat, Reddiar Chathiram Union, Dindigul District by considering the petitioner representation, dated 27.01.2022.

Prayer in WP(MD)No.8163 of 2022:Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records pertaining to the order passed by the 1st respondent in his proceedings in Na.Ka.No.2817/2020/A4 dated 14.03.2022 and Na.Ka.No. 2817/2020/A4, dated 14.03.2022.

In both petitions:

For Petitioner	:Mr. J.Senthil Kumaraiah
For Respondents	:Mr.J.Ashok Additional Government Pleader

COMMON ORDER

Both writ petitions have been filed by the same writ petitioner V.Marudhamuthu, the President of K.Dharmathupatti, Grade I, Village Panchayat, Reddiar Chathiram Union, Dindigul District.



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2.In WP(MD) No.4194 of 2022, the petitioner had sought a mandamus against the third respondent/Block Development Officer, Reddiarchathiram Union, Dindigul District, to hand over the Panchayat records to the petitioner, by considering the representation, dated 27.01.2022.

3.In WP(MD) No. 8163 of 2022, the petitioner had sought a certiorari, to call the records relating to the orders passed by the first respondent/District Collector, Dindigul District, in proceedings in Na.ka.No. 2817/2020/A4 dated 14.03.2022 and Na.ka No. 2817/2020/14, dated 14.03.2022 and quash both the proceedings.

4.The writ petitioner was elected as a President of K.Dharmathupatti, Grade I, Village Panchayat, Reddiar Chathiram Union, Dindigul District. Apart from him, there were 12 elected members. Among them, one V Krishnan was elected as Vice President. The Secretary of the said Panchayat was one Innasi. The petitioner has several grievances against the said Secretary.



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5.The learned counsel for the petitioner stated that the Secretary had committed various acts of omissions and commissions. Therefore, he was transferred to another Panchayat. But it is also stated that even there the Secretary had again committed several acts of omissions and commissions, and therefore, transferred back to the Panchayat. Now, he has been placed under suspension. All the records relating to the Panchayat are in his possession.

6.In the meanwhile, the petitioner was also charged with misappropriation and in this regard, a show cause notice was issued to him. In order to answer the show cause notice, the petitioner wanted to examine the records. The records are not available with the Panchayat, since according to the petitioner, the Secretary had taken away the records. Under those circumstances, to furnish those records to the petitioner, filed WP(MD) No. 4194 of 2022.

7.Even when the said writ petition is pending, since the petitioner did not answer the show cause notice, the first respondent exercising his power as Inspector of Panchayat, as provided under Panchayats Act, 1994,



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had passed an order of withdrawing the cheque signing power of the petitioner herein. It must be kept in mind that normally the President and the Vice President jointly have the cheque signing power. Aggrieved by the same, the petitioner had filed WP(MD) No.8163 of 2022 to quash the impugned order, which was passed by the first respondent even without giving opportunity to the petitioner to give reply to the show cause notice.

8.At the time of admission of the writ petition (WP(MD)No.8163 of 2022), the following order had been passed by this Court on 06.05.2022.

“2.Learned counsel for the petitioner submits that when this Court has already passed an order of interim injunction on 09.03.2022 in W.P(MD)No.4194 of 2022 and WMP(MD)No. 3593 of 2022, making it clear that the respondents shall not take any coercive action against the petitioner who is the elected President of K.Dharmathupatti Grade-I Village Panchayat, again violating the same, it is pleaded, the impugned order dated 14.03.2022 has been passed taking away the cheque signing power of the petitioner/President, as a result, the petitioner is not able to keep the village in order by removing the garbage, changing the fused street lights etc.

3.Therefore, there shall be an order of interim stay until further orders. Post after four weeks for filing counter.



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9.Claiming that the grant of interim stay has seriously affected the Panchayat, two applications have been filed by the first respondent/District Collector, Dindigul District in both the writ petitions seeking to vacate the order of interim stay that is WMP(MD) No. 9149 of 2023 in WP(MD) No. 4194 of 2022 and WMP(MD) No. 9143 of 2023 in WP(MD) No. 8163 of 2022.

10.Another application has been filed by one Senthil Kumar in WMP(MD) No. 4862 of 2023 in WPMD No. 8163 of 2022 to implead himself as a further the respondent in the said writ petition, claiming that on the basis of the representation by him, steps have been initiated against the petitioner. The said Senthil Kumar had also filed WMP(MD) No. 4878 of 2023 seeking to vacate the interim stay granted in WP(MD) No. 8163 of 2022.

11.Heard arguments advanced.

12.The writ petitioner had been elected as President of K.Dharmathupatti, Grade I, Village Panchayat, Reddiar Chathiram Union,



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Dindigul District. He had been issued with a show cause notice. The said notice must be answered by him. Consequent to the fact that records were not available or rather that the records have been secreted away by the Secretary of said village Panchayat and seeking copies of the records, WP(MD) No. 4194 of 2022 had been filed. It is only appropriate that the petitioner is granted opportunity to answer the show cause notice issued to him. For that purpose. it only appropriate that the documents are made available to him for perusal.

13.It is represented by the learned Additional Government Pleader, who appears on behalf of the respondents No.1 and 2, that as on date the documents are available in the Panchayat Office. The writ petitioner, as President can always peruse the documents. However, the learned counsel for the petitioner stated that the Block Development Officer had addressed the said Secretary/Innasi that further documents will have to be handed over to him.

14.A direction is issued to the third respondent/Block Development Officer, Reddiarchathiram Union, Dindigul District, to collect



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all the records of the Panchayat, index them and if they are in order, hand them over to the Panchayat office. He may address the said Innasi directly and if there are any further records available with Innasi, direct him to produce the same, collect them and hand over the same to the Panchayat office. This exercise should be completed on or before **10.05.2023**. Thereafter, the petitioner is permitted to examine and peruse the records to answer the show cause notice, for the purpose to give a reply to the show cause notice. Time is granted to the petitioner till **10.06.2023** to give such reply.

15. Since the petitioner is afforded time to give reply to the show cause notice, the impugned order, which had been passed by the first respondent may be kept in abeyance, for the present. Thereafter, the first respondent is directed to issue a notice to the petitioner or anybody else, who is interested and conduct a complete enquiry on the issues raised in the show cause notice, and then, pass a considered order on or before 31.07.2023.

16. It is stated by the learned counsel for the petitioner that the impugned order may be set aside, and if it is kept in abeyance it would be like a sword hanging over the head of the petitioner. I have consciously used the



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word “kept in abeyance”, only because, the charges as on date, have not been proved nor disproved. Therefore, the writ petitioner should also be cautious and the order kept in abeyance, is issued to thrust a responsibility on the petitioner.

17.The first respondent, merely because the order is kept in abeyance, need not pass the same order, but apply his mind and consider the points raised in the show cause notice, the reply given to the show cause notice and the representation given by the petitioner and anybody else, who had participated in the enquiry and thereafter, on the basis of those materials, pass a fresh considered order.

18.With the above directions, these writ petitions stand disposed of. No costs. In view of the said directions issued, the connected impleading petitions and the petitions to vacate stay become otiose and are closed.

26.04.2023

NCS :Yes/No
Index :Yes/No
Internet:Yes/No
PNM

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C.V.KARTHIKEYAN, J.

PNM

COMMON ORDER IN
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