



WP(MD)No.7539 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 26.07.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP(MD)No.7539 of 2023
and
WMP(MD)Nos.7029, 7030 of 2023

A.Lakshmi Azhkapuriyan

... Petitioner

v.

1.The District Collector,
Virudhunagar,
Virudhunagar District – 626 002.

2.The Tahsildar,
Rajapalayam Taluk,
Virudhunagar District.

3.The Block Development Officer,
Rajapalayam Panchayat Union,
Virudhunagar District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India
seeking issuance of a Writ of Certiorari calling for the records relating to
the impugned proceedings issued by the first respondent in



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Na.Ka.U.E.-1/4647/2021 dated 02.01.2023 and the consequential
impugned order passed by the second respondent in his proceedings in
Na.Ka.A1/1271/2022 dated 13.03.2023 and quash the same.

For Petitioner : Mr.Mahaboob Athiff
for Mr.E.Mareeskumar

For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader
for R.1, R.2

Mr.S.Kameswaran,
Government Advocate for R.3

ORDER

The petitioner is the elected Panchayat President. As against the proceedings initiated by the District Collector u/s.205 of the Tamil Nadu Panchayat Act, the petitioner has already filed a writ petition before this Court in WP(MD)No.3652 of 2022.

2.This Court disposed of the said writ petition on 28.02.2022 by observing as follows:-

“15.As rightly held by the learned Single Judge of this Court in the decision referred to by the learned Senior Counsel



for the petitioner in P.Packiam vs the Inspector of Panchayat and others reported in 2013 (1) CWC 797, the removal of a Panchayat President, is a drastic order and therefore, having far reaching the consequence and therefore, the power under Section 205 of the Act, has to be exercised by strict compliance of the statutory requirements. This Court is in agreement with the said view.

16.As seen from the order, dated 24.01.2022, which the first respondent is said to have passed under Section 205 of the Act, recommending legal action against the petitioner for her removal as Panchayat President, excepting for referring to the explanations submitted by the petitioner to the show cause notices issued by the first respondent, no detailed reasoning has been given.

17.Being a drastic action, that is removing a Panchayat President, only after the objective satisfaction of the first respondent that the evidence placed before him over the allegations levelled against the petitioner, is found to be satisfactory and the explanations submitted by the petitioner to the show cause notices is found to be unsatisfactory, the first respondent is empowered to recommend legal action against the petitioner for her removal as Panchayat President and recommend the same to the second respondent accordingly.

18.Further, this Court had made it clear in its order, dated



08.02.2022 in W.P.(MD)No.2545 of 2022, that the petitioner must be afforded a fair hearing and must also be granted personal hearing. But in the order, dated 24.01.2021 passed by first respondent, no personal hearing was granted to the petitioner. Though the order, dated 24.01.2022 was passed even before the order, dated 08.02.2022 passed by this Court in W.P(MD)No.2545 of 2022, being a drastic action ie., seeking removal of the petitioner as Panchayat President, the first respondent ought to have granted the petitioner a right of personal hearing, which he has failed to do so in his order, dated 24.01.2022.

19.The decision relied upon by the learned Senior Counsel for the petitioner in the case of Manoharlal (Dead) by Lrs vs Ugrasen (Dead) By Lrs and others, reported in (2010) 11 SCC 557 also supports the case of the petitioner. In that decision also, the Honourable Supreme Court considered the effect of action taken subsequent to passing of an interim order in its disobedience and held that any action taken in disobedience of the order passed by the Court would be illegal and the subsequent action would be a nullity.

20.The Honourable Supreme Court has referred to various decisions with regard to the very same proposition in the said judgment. The case on hand also falls under the very same category, wherein, a direction was issued by this Court on



08.02.2022 to the first respondent calling upon him to provide a fair hearing to the petitioner and also calling upon him to grant personal hearing to the petitioner, but, whereas, though the order, dated 24.01.2022 came to be passed by the first respondent even prior to the order, dated 08.02.2022 passed by this Court, no personal hearing was afforded to the petitioner and a detailed reasoning has also not been given by the first respondent for rejecting the petitioner's explanation to the show cause notices issued by the first respondent with regard to the petitioner's removal as Panchayat President.

21.The first respondent has also not informed the second respondent about the passing of the order, dated 08.02.2022 by this Court in W.P.(MD)No.2545 of 2022. Being a superior authority, the first respondent ought to have informed the order dated 08.02.2022 to the second respondent. But, without considering the same, the impugned proceedings has been issued by the second respondent calling upon the petitioner to appear in person on 01.03.2022 with regard to her removal as Panchayat President, which in the considered view of this Court is per se illegal and has to be set aside.

22.For the foregoing reasons, this Court is of the considered view that the first respondent has violated the principles of natural justice and has also not complied with the direction given by this Court on 08.02.2022 in W.P.(MD)No.



2545 of 2022 in letter and spirit by affording a fair hearing to the petitioner and by granting the right of personal hearing. Therefore, the impugned proceedings, dated 21.02.2022 issued by the second respondent is hereby quashed and the Writ Petition is allowed. However, liberty is granted to the respondents to take fresh action against the petitioner, if so advised, under Section 205 of the Tamil Nadu Panchayats Act, 1994 or under any other statutory provisions in the manner known to them under law. No costs. Consequently, connected miscellaneous petitions are closed.”

3. Thereafter, the District Collector has issued a show cause notice with certain new allegations as against the petitioner and has passed the impugned order dated 02.01.2023 that the explanations offered by the petitioner is not acceptable.

4. By relying on the earlier orders passed by this Court, learned Counsel for the petitioner submitted that the impugned order has been passed by simply recording the imputations alone, without any discussions on the explanations offered by the petitioner. On this very same ground,



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the earlier notice of the respondents calling for a Panchayat meeting was set aside by this Court. Even thereafter, the impugned order has been passed without discussing the explanations offered by the petitioner.

5.Learned Additional Government Pleader, by referring to the counter affidavit filed by the first respondent / District Collector, submitted that the allegations made as against the petitioner are serious in nature and that the impugned order was passed after providing due opportunity to the petitioner.

6.This Court considered the rival submissions made on either side and perused the available materials.

7.The petitioner is an elected President of the Panchayat. The first respondent / Inspector of Panchayat is having power u/s.205 of the Panchayat Act to initiate proceedings, if the Panchayat President has not acted in accordance with law. Certain procedures have been contemplated u/s.205 of the Act. The petitioner has earlier filed a writ petition in



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WP(MD)No.2545 of 2022 with a grievance that the petitioner's explanation has not been considered. This Court, by order dated 08.02.2022, directed the District Collector to consider the objections and to pass orders.

8. Thereafter, the petitioner has filed another writ petition in WP(MD)No.3652 of 2022 as against the order convening the Panchayat meeting as per Section 205 of the Act. In this writ petition, this Court, on 28.02.2022, while setting aside the order impugned, has discussed in detail as to the manner in which the proceedings ought to have been dealt with.

9. After the orders passed by this Court, the subsequent show cause notice was issued by the first respondent on 24.05.2022, for which, an explanation was also offered by the petitioner. However, the impugned order has been passed without discussing the explanations offered by the petitioner. When the first respondent is initiating proceedings u/s.205 of the Panchayat Act, he ought to have considered it by applying his mind on the explanation offered by the petitioner also.



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10. Therefore, on this ground alone, the impugned order dated 02.01.2023 and the subsequent order dated 13.03.2023 are set aside. The matter is remitted back to the file of the first respondent for fresh consideration. The first respondent shall consider the explanations offered by the petitioner, discuss the same and thereafter, pass appropriate orders. The entire exercise shall be completed within a period of twelve weeks from the date of receipt of a copy of this order.

With the above observations and directions, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Index : Yes / No
NCC : Yes / No
gk

26.07.2023

To

1. The District Collector,
Virudhunagar,
Virudhunagar District – 626 002.

2. The Tahsildar,



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Rajapalayam Taluk,
Virudhunagar District.

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3. The Block Development Officer,
Rajapalayam Panchayat Union,
Virudhunagar District.

B.PUGALENDHI, J.

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