



W.P.(MD).No.11436 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

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THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.11436 of 2021
and WMP(MD)No.17684 of 2021

C.Mohandhas

... Petitioner

Vs

1. The Director of Vigilance and Anti-Corruption(DVAC),
No. 293, M.K.N.Road, Alandur, Chennai-600 026.
2. The Director of Rural Development and Panchayat Raj,
Panagal Building, No.1, Genius Road, Saidapet,
Chennai-600 015.
3. The District Collector,
Kanyakumari District at Nagercoil-629 001.
4. The Asst Director (Village Panchayat),
Collectorate Building, Nagercoil-629 001, Kanyakumari Dist.
5. The Block Development Officer (Panchayat),
Munchirai Panchayat Union,
Kanyakumari Dist-629 121.
6. Nagarajan
7. R.T.Suresh
8. Raja Gopalakrishnan

... Respondents



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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 records pertaining to the impugned order passed by the second respondent in Na.Ka.no. 39196/2019/VC 2-2 dt 29.10.2020 and quash the same as it lacks bonafide and illegal consequently direct a full-fledged enquiry by the 1st respondent or by the 2nd respondent taking into account the charges levelled by the local fund audit authorities in their reports from the year 1999-2000 to 2019-2020.

For Petitioner : Mr.V.H.S.Prathap

For Respondents : Mr.M.Prakash (R1 to R5)
Additional Government Pleader

Mr.K.Dinesh (R6)

ORDER

The present writ petition has been filed seeking a direction to quash the impugned order passed by the second respondent in Na.Ka.no. 39196/2019/VC 2-2, dated 29.10.2020 as it lacks bonafide and illegal consequently direct a full-fledged enquiry by the first respondent or by the second respondent taking into account the charges levelled by the Local Fund Audit Authorities in their reports from the year 1999-2000 to 2019-2020.



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2.Heard, Mr.V.H.S.Prathap, learned counsel appearing for the petitioner and Mr.P.Balasubramanian, learned Standing Counsel appearing for the respondents. Perused the materials on record.

3.(i).The petitioner was the former Vice President of Vilathurai Village Panchayat during the period 2001-2006 and the sixth respondent was working as Village Secretary and the seventh respondent was the President of said Panchayat. The petitioner claims that the seventh respondent is continuously holding the post of President from the year 2001 to 2016 and the sixth respondent is also holding the post of Village Secretary and Assistant Public Information Officer of the said Panchayat from the year 1999-2019.

(ii)The respondents 6 to 8 are indulging in several irregularities and illegalities and also looting money from the common public, as a result of which, the petitioner lodged several complaints against them. On receipt of those complaints, departmental enquiry has been initiated by the Authorities concerned and the Enquiry Officer has also conducted the enquiry and filed a report before the fourth respondent/Assistant Director of Village Panchayat, Kanyakumari District.



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(iii)On the basis of enquiry, on 29.10.2020, the sixth respondent was transferred from the post of Village Secretary from Vilathurai Panchayat to Nadaikavu Panchayat.

(iv)This writ petition has been filed by the petitioner to quash the impugned order passed by the second respondent and to conduct a full-fledged enquiry by the first or second respondent, taking into account the charges levelled by the Local Fund Audit Authorities in their reports from the year 1999-2000 to 2019-2020.

4.The learned Additional Government Pleader appearing for the respondents 1 to 5 filed a counter, wherein, it has been categorically stated that already a full fledged enquiry has been conducted and based on the enquiry report, several departmental actions have been initiated against the erring officers and thereby, the sixth respondent has been transferred from Vilathurai Village Panchayat to Nadikavu Panchayat. In furtherance to the same, the enquiry report revealed that the allegations raised by the petitioner against the sixth respondent were not proved in the enquiry. However, for the purpose of maintaining equilibrium and since the petitioner is lodging complaints one after another, for the sake of better administration of Vilathurai Panchayat, the sixth



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respondent has been transferred from Vilathurai Panchayat to Nadaikavu Panchayat.

5.This Court has serious reservation about the rights of petitioner to file a writ petition as against the respondents 6 to 8 requiring to conduct a full-fledged enquiry by the first respondent or by the second respondent. It is no more res-integra. This Court has decided the issue in more than one occasion that a third party will not have any locus standi to request the competent authority to initiate disciplinary proceedings as against the official respondents. However, in this case, the petitioner is a private party, who had been the former Vice President of Vilathurai Panchayat, who may not have any involvement in the affairs of Vilathurai Panchayat as of now and he has no locus standi to make a request to initiate departmental proceedings as against the respondents 6 to 8 and this Court in WP(MD)No.8871 of 2018, dated 26.04.2018 has dealt with a similar case and has dismissed the said writ petition filed by the private party and the relevant portion is extracted hereunder:

“16. Admittedly, the petitioner is a third party and though he has claimed to be the social worker, he cannot claim any personal injury of the case of the alleged delayed action of disciplinary proceedings against the official respondent against the private respondent.



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17. *Once the third party cease to be the person, without any personal injury, he cannot maintain the Writ Petition as an adversary Writ Petition.*

18. *If the petitioner files any adversary writ petition on the service side, because he is a third party, the next question would be naturally raised is that, whether he can file such petitions by way of Public Interest Litigations(PIL).*

19. *In this regard, it is also brought to the notice of this Court that, the very same petitioner already approached this Court by filing a PIL, where the Division Bench of this Court in **W.P.(MD).No.6734 of 2007 in Sudalaikannu Vs., the Secretary, Municipal Administration and Water Supply Department and others** dated 23.12.2008 made the following observations which can usefully be pressed into service herein.*

“ It is seen that the petitioner belongs to a particular political party and he also functioned as a Councilor of the Municipal Corporation. Further, the petition has been filed on frivolous reasons after knowing fully well that action is being taken against respondents-4 to 7. It has been repeatedly held by the Hon'ble Supreme Court as well as by this Court that vexatious applications in the guise of public interest litigations should not be entertained. Since the present petition is one of such kind, we hold that the petitioner has no locus standi to file it and the same is liable to be dismissed.”

20. *Since the very same petitioner has been branded as the frivolous litigant by the judicial pronouncement of the Division Bench Judgment cited supra, with regard to the*



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genuineness of the litigant's nature, attached with the nature of this Court, one cannot have any doubt that, the petitioner certainly has not approached this Court for any good intention and he might have approached this Court with any other private intention (i.e.,) the reason why the petitioner knowing well that he cannot file the writ petition against the official respondent herein, for the alleged inaction on their part on the private respondents herein by way of service dispute, has filed this Writ Petition.

21. If such kind of frivolous litigations are entertained by this Court, that too, in exercising the extraordinary original jurisdiction of this Court under Article 226 of the Constitution of India, this Court is afraid that, there will be pouring of such frivolous litigations by unscrupulous persons every day and that will open the flood gate to so many unscrupulous persons to abuse the process of law, to settle their personal score in the guise of service dispute. Therefore, this Court has no hesitation to hold that this petitioner does not have any locus to maintain this writ petition for more than one reason, as he has already been considered to be a frivolous litigant by the Division Bench of this Court.”

6.I am fully in consonance with the discussion, which has been elaborated in the order mentioned supra.



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7.The learned Additional Government Pleader also drew my attention to the fact that the allegations raised by the petitioner as against the respondents 6 to 8 are frivolous, as per the full-fledged enquiry conducted by the enquiry officer. Therefore, this Court could not entertain such kind of writ petition filed by the petitioner, by exercising the extra ordinary jurisdiction under Article 226 of Constitution of India.

8.In view of the above facts, this writ petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

12.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
PNM



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L.VICTORIA GOWRI, J.

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ORDER IN
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