



W.P.(MD).No.15899 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.07.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.15899 of 2023

N.Petchithai

... Petitioner

Vs.

- 1.The Director,
Department of Urban Local Government,
Chennai-9.
- 2.The District Collector,
District Collectorate Office,
Tirunelveli.
- 3.The Deputy Director of Town Panchayat,
Tirunelveli,
Tirunelveli District.
- 4.The Executive Engineer,
Town Panchayat,
Perumalpuram Post,
Palayamkottai,
Tirunelveli District.
- 5.The Assistant Executive Engineer,
Town Panchayat,
Perumalpuram Post,
Palayamkottai,
Tirunelveli District.



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6.Sanjan Methew,
The Executive Officer,
Nanguneri Town Panchayat,
Nanguneri,
Tirunelveli District.

7.V.Kalyani

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondents 1 to 5 herein to consider the petitioner's representation, dated 15.04.2023 and pass appropriate orders to take disciplinary action against the respondents 6 and 7 for misappropriate the fund belongs to the petitioner based upon the petitioner's complaint, dated 06.02.2023 and dispose the petitioner's complaint against the respondents 6 and 7, dated 06.02.2023.

For Petitioner : Mr.S.Rajeshkanna

For R-1 to R-5 : Mr.Veera Kathiraven
Additional Advocate General
Assisted by
Mr.M.Prakash
Additional Government Pleader

For R-6 : No appearance

For R-7 : Mr.Mohammed Imran
for M/s.Ajmal Associates



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ORDER

The present writ petition has been filed seeking direction to the respondents 1 to 5 herein to consider the petitioner's representation, dated 15.04.2023 and pass appropriate orders to take disciplinary action against the respondents 6 and 7 for misappropriating the fund belonging to the petitioner based upon the petitioner's complaint, dated 06.02.2023 and dispose the petitioner's complaint against the respondents 6 and 7, dated 06.02.2023.

2. Heard the learned Counsel for the petitioner, the learned Additional Advocate General, who is assisted by the learned Additional Government Pleader for the respondents 1 to 5 and the learned Counsel for the seventh respondent and carefully perused the materials available on record.

3. The contents of the petitioner's representation, dated 15.04.2023, would reveal that it is clearly a matter of dispute between her and the respondents with a lot of factual implications and this petitioner has sought for a Mandamus, seeking to take disciplinary action against the respondents 6 and 7 for misappropriation of funds belonging to the petitioner based on the



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petitioner's complaint, dated 06.02.2023. Such a Mandamus cannot be issued, directing the authorities to take disciplinary action against the Subordinate Officers. The matter is no longer *res integra* and it is a settled proposition of law that the third party cannot seek disciplinary action as against the employees and this Court in W.P(MD)No.16731 of 2020, dated 08.03.2023 in a similar case has passed an order and the relevant portion of which is extracted as follows:

“The petitioner seeks conclusion of the petition mentioned enquiry proceedings.

2. I went through the contents of the complaint sent by the petitioner. The petitioner has arrayed as many as 94 persons as the respondents in the complaint. They vary from Village Administrative Officers to District Collectors.

3. I do not want to make any comment on the petitioner. I would only state that it is for the competent authority to take action the subordinate employees. It is not for this Court to issue any positive mandamus. A third party cannot insist or demand that disciplinary action must be taken against a particular employee or set of employees.”



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4. This Court is fully in consonance with the said order and hence, this Court is not inclined to pass any positive Mandamus and this writ petition is liable to be dismissed.

5. In the result, this writ petition stands dismissed. There shall be no order as to costs.

18.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
BTR

To

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- 2.The District Collector,
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- 3.The Deputy Director of Town Panchayat,
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4.The Executive Engineer,
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5.The Assistant Executive Engineer,
Town Panchayat,
Perumalpuram Post,
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6.The Executive Officer,
Nanguneri Town Panchayat,
Nanguneri,
Tirunelveli District.



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L.VICTORIA GOWRI, J.

BTR

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