



W.P(MD)No.15913 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 28.07.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.15913 of 2015

and

M.P.(MD)No.1 of 2015

V.Ramakrishnan

... Petitioner

Vs.

**The District Collector cum
The Inspector of Panchayats,
Tirunelveli District,
Tirunelveli.**

... Respondent

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned orders passed by the respondent vide his proceedings No.A2/3710/2014, dated 27.10.2014 and vide his proceedings No.A2/3710/2014, dated 16.07.2015 and quash the same.

For Petitioner : Mr.S.Ramesh @ Ramiah

**For Respondent : Mr.S.Shanmugavel
Additional Government Pleader**



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ORDER

Heard the learned counsel on either side.

2. The erstwhile president of the local body is before this Court. He challenges the impugned orders passed by the District Collector, Tirunelveli District. The local body had passed a resolution and implemented the work of laying the road. Subsequently, the proposal was submitted for extending the said road. The District Collector in his capacity as Inspector of Panchayats came to the village for conducting spot inspection. He felt that even laying of the original road was unnecessary. In that view of the matter, he proceeded to pass an order dated 27.10.2014 directing recovery on proportionate basis from the President of the local body as well as the officials. This order was passed without notice. Subsequently, after issuing notice on 19.05.2015, another order dated 16.07.2015 was passed cancelling the original resolution. Both these proceedings are under challenge in this writ petition.



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3. The learned counsel appearing for the petitioner reiterated all the contentions set out in the affidavit filed in support of the writ petition and called upon this Court to set aside the impugned orders and grant relief as prayed for. He also brought to my attention to the order dated 01.11.2022 in W.P.(MD)Nos.16228 & 16230 of 2015 filed by the departmental officials challenging the departmental action taken pursuant to the order dated 27.10.2014. The said writ petitions were allowed. The learned counsel for the petitioner submitted that the present case also deserves to be allowed on the same basis.

4. The respondents have filed counter affidavit and the learned Additional Government Pleader took me through its contents. He pointed out that the impugned order was passed not on hearsay but on personal inspection. This Court ought not to brush aside the opinion formed by the Inspector of Panchayats after undertaking a spot visit. The Inspector of Panchayats had come to the conclusion that the public funds had been wasted on an unnecessary project. That is why, he invoked his power under Section 202 of the Tamil Nadu



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Panchayats Act, 1994. As regards the second order, he submitted that even though notice was issued, the petitioner failed to respond. The learned Additional Government Pleader would point out that the so-called explanation said to have been submitted by the petitioner on 13.06.2015 does not have any receipt or acknowledgement. He called upon this Court to dismiss the writ petition.

5. I carefully considered the rival contentions and went through the materials on record. This Court would definitely not dismiss the observations made by the District Collector after undertaking a spot visit. It is quite possible that the project itself was needlessly conceived. But that is beside the issue. The question that calls for consideration is whether the impugned orders are in consonance with the principles of natural justice. My categorical answer is “no”. The foundational order was passed on 27.10.2014. The said order was passed without issuing proper notice to the petitioner herein. The order directed recovery of a sum of Rs.2,48,000/- from the petitioner alone. Three other officials had been mulcted with monetary liability. Hence, issuance of notice by the Assistant Director of Tirunelveli on



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19.05.2015 is a mere empty formality. Both the impugned orders suffer from the vice of pre-determination. It is a settled principle of administrative law that the authority ought not to proceed with the preconceived information. A learned Judge of this Court vide order dated 01.11.2022 in W.P.(MD)Nos.16228 & 16230 of 2015 had already set aside the order dated 27.10.2014 and the consequential action taken by the department. The present writ petition also has to be allowed for the very same reasons.

6. The impugned orders are set aside. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

28.07.2023

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

The District Collector cum
The Inspector of Panchayats,
Tirunelveli District,
Tirunelveli.

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G.R.SWAMINATHAN, J.

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