



W.P(MD).No.25535 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 15.11.2023

ORDER PRONOUNCED ON : 17.11.2023

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).No.25535 of 2023
and WMP(MD).No.21708 of 2023**

S.Kumaresan
S/o.K.Sangiah
Executive Officer (Now Under Suspension)
Manamadurai Municipality
Sivagangai Zone
Sivagangai District

....Petitioner

Vs

1.The Director of Town Panchayats
(Formerly Additional Chief Secretary)
The Directorate of Town Panchayats
7th & 8th Floor
Urban Administrative Office Campus
The Directorate of Town Panchayats
(Formerly Additional Chief Secretary)
Raja Annamalaipuram
Chennai 600 028

2.The District Collector
Sivagangai Collectorate
Sivagangai District

3.The Assistant Director of Town Panchayats
Sivagangai Zone
Sivagangai District

...Respondents



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Prayer: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records pertaining to ROC.No. 2412/2021/E1 Dated 18.03.2021 and all the charge memos on the file of the first respondent and quash the same.

For Petitioner : M/s.Juliat Latha
For Mr.M.Vivekanandan

For Respondents : Mr.T.Villavankothai
Additional Government Pleader

ORDER

The present writ petition has been filed by the Executive Officer (selection grade) of a town panchayat seeking to quash the order of suspension dated 18.03.2021.

2.The writ petitioner herein was appointed as a Bill Collector in Town Panchayat in the year 1999 and he was promoted as an Executive Officer in the year 2008. Under the impugned order dated 18.03.2021, he was placed under suspension in contemplation of departmental proceedings on the allegation that he had committed serious irregularities in procurement of street lights and mishandled the Town Panchayat funds.

3.The petitioner was issued with a first charge memo on 24.05.2021,



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second charge memo on 25.05.2021, third charge memo on 08.09.2021 and a fourth charge memo on 18.05.2021. For all these charge memos, the petitioner already submitted his explanation along with filled up questionnaire form.

4.On 15.12.2021, the Commissioner of Town Panchayats had appointed one Mr.M.Maheen Abubakkar, Assistant Director of Town Panchayat, Tirunelveli Zone as an Enquiry Officer for the enquiry into the charges as against the writ petitioner for the charge memos dated 24.05.2021, 25.05.2021, 08.09.2021 and 18.05.2021. The enquiry officer issued a notice on 31.05.2022 instructing the writ petitioner to appear for enquiry on 21.06.2020. The petitioner herein sent a reply on 17.06.2022 challenging the appointment of the Enquiry Officer on the ground that only the officer above the cadre of Commissioner of Town Panchayat could be appointed as an Enquiry Officer.

5.On 17.06.2022, the petitioner has sent a detailed letter contending that the charge memo, suspension order and the appointment of the enquiry officer are illegal. In the said reply, the petitioner has categorically informed that there is no possibility for him to appear for enquiry, unless an enquiry officer who is above the rank of Commissioner of Town Panchayat is



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appointed. On 15.12.2021, one Mr.R.Muthukumar, Assistant Director of Town Panchayats, Theni Zone was appointed as an Enquiry Officer. On 11.03.2022, the petitioner had again sent a reply that he is not willing to appear before the Enquiry Officer. Thereafter, the petitioner has chosen to file the present writ petition on 18.10.2023 challenging the order of suspension on the ground that it is prolonged in nature and it is continuing for the past two years. After filing of the writ petition, by proceedings of the Director of Town Panchayats dated 30.10.2023, Tmt.Lalithamani, Assistant Executive Engineer of Town Panchayats, Coimbatore Zone has been appointed as an Enquiry Officer. Therefore, the trajectory of events narrated above will clearly reveal that the Enquiry Officer was appointed on 15.12.2021 and for the past two years, the petitioner is refusing to appear before the Enquiry Officer.

6.The learned counsel appearing for the petitioner is not able to point out any jurisdictional error in the appointment of the Enquiry Officer concerned. She vehemently contends that the petitioner is under suspension for more than two years and therefore, the suspension order may be revoked and he may be permitted to participate in the enquiry proceedings.

7.When the Court questioned about the attitude of the writ petitioner in not attending the enquiry proceedings, the writ petitioner through his letter



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dated 06.11.2023 addressed to the Director of Town Panchayat has agreed to appear in the departmental enquiry proceedings.

8.The only ground on which the suspension order is sought to be quashed is that there is a delay in completing the enquiry proceedings. All the four charge memos have been issued in the year 2021 and the last charge memo is dated 08.09.2021 for which the petitioner has submitted his explanation on 04.10.2021. The Enquiry Officer was appointed by the respondent on 15.12.2021. The petitioner has been regularly sending a letter to the authorities that he would not appear for personal enquiry unless the officer above the cadre of Commissioner of Town Panchayat is appointed as an Enquiry Officer.

9.The petitioner is not able to point out how the Enquiry Officer already appointed is lacking jurisdiction in conducting the enquiry as against him. Therefore, it is clear that only due to fault of the writ petitioner, the enquiry could not be conducted for the past two years. Hence, the petitioner cannot take advantage of his own fault and contend that the suspension is prolonged in nature. Since the petitioner has refused to participate in the enquiry proceedings without any legally acceptable reason, the question of reviewing the order of suspension periodically would not arise. Therefore,



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this Court is not inclined to quash the order of suspension, but proceeds to direct the respondents herein to complete the enquiry within a period of six months from the date of receipt of a copy of this order.

10. In view of the above said deliberations, there are no merits in the writ petition. The writ petition stands dismissed with the above said observations. No costs. Consequently, connected miscellaneous petition is closed.

17.11.2023

Internet : Yes/No
Index : Yes/No
NCC : Yes/No
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R.VIJAYAKUMAR, J.

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Pre-delivery order made in

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