



W.P(MD)No.27068 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.27068 of 2023

and

W.M.P.(MD)Nos.23141 & 23242 of 2023

Nagamani

... Petitioner

Vs.

- 1.State of Tamil Nadu
represented by
The Principal Secretary,
Rural Development and Panchayat Raj Department,
State of Tamil Nadu,
Fort St.George,
Chennai-600 009.
- 2.The Director,
Directorate of Rural Development and Panchayat Raj,
Panagal Building,
Chennai-600 015.
- 3.The District Collector/The Inspector of Panchayats,
Office of the District Collector,
Theni District.
- 4.The District Revenue Officer,
Office of the District Revenue Officer,
Collectorate Office Campus,
Theni District.



W.P.(MD)No.27068 of 2023

5. The Assistant Director (Panchayats)
Office of the Assistant Director (Panchayats)
Collector Office Campus,
Theni District.

6. The Block Development Officer (Village Panchayat)
Office of the Block Development Officer (Village Panchayat)
Cumbum Panchayat Union,
Theni District.

7. The Tahsildar,
Office of the Tahsildar,
Uthamapalayam Taluk,
Theni District.

... Respondents

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 entire records connected with the impugned order passed by the respondent no. 3 in Na.Ka.no.3497/2020/Q.2 dated 19.10.2023 and quash the same as illegal in accordance with law.

For Petitioner : Mr.R.Alagumani

For Respondent : Mr.K.Balasubramani
Special Government Pleader

ORDER

Heard both sides.

2. The issue raised in the writ petition is *no longer res integra*.

Vide order dated 07.06.2022 in W.P.(MD)No.14768 of 2011, a learned



W.P(MD)No.27068 of 2023

Judge of this Court held as follows:-

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“3. The learned counsel for the petitioner pointed out that surcharge proceedings are governed by a different set of rules, namely Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000. As per Rule 3, only the Assistant Director of rural development (Audit) was empowered to initiate surcharge and disallowance proceedings. Only if a Surcharge Certificate was issued under Section 4 of Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules 2000, District Collector will have an authority to invoke recovery proceedings. In fact, the District Collector is only an appellate authority under the said rules.

4. A perusal of the rules will clearly indicate that the District Collector has no jurisdiction, whatsoever to initiate proceedings for surcharge or order recovery from the panchayat president. That apart, the present impugned order has been issued without show cause notice or enquiry for the purpose of recovering the said amount. What was initiated as against the petitioner is proceedings under 205 of the Tamil Nadu Panchayat Act and not a surcharge proceeding. In these circumstances, the order of recovery passed by the respondent is without jurisdiction and the same is set aside.”

3. Respectfully following the said order, the impugned proceedings are set aside. The respondents are directed to follow due process of law. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

24.11.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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W.P(MD)No.27068 of 2023

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W.P(MD)No.27068 of 2023

G.R.SWAMINATHAN, J.

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W.P(MD)No.27068 of 2023

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