



W.P.No.646 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

W.P.No.646 of 2024
and W.M.P.Nos.662 and 663 of 2024

K.Rukmani

... Petitioner

-Vs-

1. The District Collector cum Inspector of Panchayat,
Namakkal District.
2. The Block Development Officer (Village Panchayat),
Namakkal District.
3. The Deputy Block Development Officer (Zone-1),
Namakkal Zone,
Namakkal District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the first respondent in her proceedings vide Na.Ka.No.Oo.Ni.3/2272/2022 dated 08.12.2023 and direct the first respondent to enable the petitioner by giving Special Power Under Section 204(3) of the Act.

For Petitioner	: Mr.G.Ilamurugu
For R1	: Mr.S.Arumugam Government Advocate
For R2 and R3	: Mrs.M.Jayanthi Additional Government Pleader

ORDER



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This writ petition has been filed challenging the order passed by the first respondent dated 08.12.2023, thereby withdrew the cheque issuing power from the petitioner.

2. Heard the learned counsel on either side and perused the materials available on record.

3. The petitioner is an elected Panchayat President of Thaligai Village Panchayat, Namakkal Taluk and District. While being so, the members of the said Panchayat did not co-operate for the smooth functioning of the office which is against the welfare of the general public. They are acting for their personal gain and also insisted the petitioner to co-operate with their illegal demands which was not acceded by the petitioner. Therefore, the petitioner could not able to implement any of the scheme due to non-co-operation of ward members. Hence, the petitioner submitted a representation to the first respondent on 08.05.2023 to take appropriate action as against the members of the Panchayat in pursuant to the power vested with the first respondent under Section 204 of the Tamil Nadu Panchayat Act, 1994 (hereinafter called as “the Act”). However, without conducting any enquiry, the first respondent by invoking provisions of Section 203 of the Act suspended the cheque power of



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the petitioner and authorized the second and third respondents to execute all the works of the Panchayat. It is a clear violation of settled provisions of law that before invoking the emergency provision, it is required under the law to put on notice of the proposed suspension of cheque power of the President which had not been followed by the first respondent while invoking the provision of Section 203 of the Act.

4. It is relevant to extract the provision under Section 203 of the Tamil Nadu Panchayat Act as follows:-

“ 203. Emergency powers of Collector and Inspector:-

Subject to such control as may be prescribed, the Inspector or the Collector may, in cases of emergency, direct or provide for the execution of any work, or the doing of any act which a Panchayat or Executive Authority or Commissioner or I[Secretary] is empowered to execute or do and the immediate execution or doing of which is in his opinion necessary for the safety of the public and may direct that the expense of executing such work or doing such act shall be paid by the person having the custody of the Village Panchayat Fund or the Panchayat Union (General) Fund or the District Panchayat (General) Fund in priority to any other charges against such Fund except charges for the service of authorised loans.”

5. The powers conferred upon the first respondent under Section 203 of the Act is not intended to act as an authority to take Disciplinary proceedings against the Vice-President. The Government wanted the activities of the



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Panchayats to be taken up emergently, without obtaining formal orders from the Panchayat or Executive Authority. In case the first respondent is of the view that the execution of a particular work is imminent or the doing of a particular thing is necessary for the safety of the public, it is open to him to take up such works without the association of the Panchayat or Executive Authority. Therefore, the said provision would make the position very clear that the power is intended to exercise only in emergency.

6. Further, in case of emergent action is necessary and it is not practically possible to obtain the sanction of the Village Panchayat or the Panchayat Union council, it is open to the Executive Authority or the Commissioner to execute such work and to pay the expenses of executing such work out of the Village Panchayat Fund or the Panchayat Union Fund, as the case may be. Therefore, the first respondent cannot act as an extra-constitutional authority over democratically elected President and Vice-President of the Panchayat. In case, the elected President or Vice-President indulges in acts of misuse of authority and the cheque signing power should be taken away, it is for the legislature to incorporate appropriate provisions to confer such express powers of suspension on the District Collector. Therefore, the first respondent has no power under Section 203 of the Act to take away the cheque issuing power of the petitioner.



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7. In view of the above, the impugned order cannot be sustained and is liable to be quashed. Accordingly, the impugned order passed by the first respondent in proceedings vide Na.Ka.No.Oo.Ni.3/2272/2022 dated 08.12.2023, is hereby quashed. The first respondent is directed to permit the petitioner to act in accordance with law.

8. Accordingly, this writ petition stands allowed. Consequently, connected Miscellaneous petitions are closed. No costs.

19.08.2024

Internet: Yes

Index : Yes/No

Neutral Citation: Yes/No

Speaking/Non Speaking order
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G.K.ILANTHIRAIYAN. J.

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To

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