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W.P.No.3519 of 2024



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.10.2024

CORAM:

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

W.P.No.3519 of 2024

and

W.M.P.No.3775 of 2024

B.Sunitha

.... Petitioner

Vs

1.The Inspector of Panchayat,
The District Collector,
Thiruvallur District.

2.The Assistant Director of Panchalyat(Panchayats),
Thiruvallur,
Thiruvallur District.

3.The Block Development Officer,
Vengathur Panchayat,
Kadambathur Union,
Thiruvallur District.

4.The Tashildhar,
Thiruvallur Taluk,
Thiruvallur District.

.... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a Writ of Certiorarified Mandamus, call for the records of the impugned order dated 29.01.2024 Na.Ka.No. 4166/2022/A3, Oo.E(Ooo) and consequential gazette notification No. VI(2)/1(a)/2024 dated 31.01.2024 passed by the 1st respondent and quash



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the same, consequently direct the 1st respondent to reinstate the petitioner in the post of President Vengathur Village Panchayat.

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For Petitioner : Mr.K.Balu

For R1, R2 & R4 : Mr.P.Kumaresan
Additional Advocate General
Assisted by Mr.V.Manoharan
Additional Government Pleader

For R3 : Mr.M.R.Gokulkrishnan
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 31.01.2024, thereby removed the petitioner from the post of President of Vengathur Village Panchayat, Kadambathur Union, Thiruvallur District.

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

3. The petitioner was elected as President of Vengathur Village Panchayat during the local body election held in the month of January, 2020. While being so, the first respondent found some irregularities in the panchayat based on the Audit Report of the year 2021-2022 and from 01.04.2022 to 30.09.2024. Therefore, the first



respondent levelled eleven charges as against the petitioner and issued notice on 03.10.2023, thereby directed the petitioner to submit her explanation within a period of fifteen days from the date of receipt of the notice. Though the petitioner received notice without submitting any explanation, she requested time to submit her explanation. However, the request was not considered by the first respondent and directed the fourth respondent to convene a meeting as contemplated under Section 205 of the Tamil Nadu Panchayat Act.

4. As directed by the first respondent, the fourth respondent convened a meeting on 13.12.2023, in which all the ward members, i.e., 15 members, of Vengathur Village Panchayat were present. Out of 15 ward members 14 ward members did not support the charges. Accordingly, the fourth respondent submitted a report before the first respondent. However, the first respondent did not agree for the report submitted by the fourth respondent and differed with the decision made in the meeting. Therefore, once again the first respondent issued notice dated 08.01.2024 stating that the first respondent differs from the view taken by the members of the village panchayat and thereby directed the petitioner to submit her explanation within fifteen days in person. The



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said notice was served on the petitioner on 11.01.2024. The fifteenth day falls on 25.01.2024. However, from 25.01.2024 to 28.01.2024 were public holidays. Therefore, the petitioner had not submitted her explanation in person. Since the petitioner was asked to submit her explanation in person on the show cause notice dated 08.01.2024, the petitioner submitted her explanation on 29.01.2024. But, the first respondent passed an order on 29.01.2024, thereby removed the petitioner from the post of President of Vengathur Village Panchayat, Kadambathur Union, Thiruvallur District. Hence, the present writ petition.

5. The learned counsel appearing for the petitioner would submit that the petitioner was not given an opportunity of hearing and it is a clear violation of principles of natural justice. On 29.01.2024, that too after receipt of the explanation submitted by the petitioner, the first respondent, without considering the same, mechanically passed an order and removed the petitioner from the post of President. In support of his contention, he relied upon the Judgment of the Hon'ble Division Bench of this Court reported in **2009 (4) LW 778** in the case of ***The District Collector and Inspector of District Panchayat Villupuram.***



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6. The learned Additional Advocate General submitted that the petitioner was issued first show cause notice dated 03.10.2023. Even after receipt of the same, the petitioner failed to submit any explanation and sought for time to prolong the issue. Therefore, the first respondent directed the fourth respondent to convene a meeting in accordance with law. Though, the fourth respondent convened a meeting on 13.12.2024, majority of the ward members did not support the charges framed as against the petitioner. Therefore, the first respondent differed with the views taken by the members of the village panchayat and issued notice to the petitioner dated 08.01.2024, thereby directed the petitioner to submit her explanation within a period of fifteen days and the same was also received by the petitioner. Thereafter, the petitioner failed to submit her explanation in person. On the given day, i.e., on 29.01.2024, the petitioner submitted her explanation that too through her secretary and not in person. Therefore, the explanation submitted by the petitioner was not considered and the first respondent passed an order, thereby removed the petitioner from the post of President. Therefore, it would not amount to violation of principles of natural justice.



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7. A perusal of the records reveals that the show case notice dated 08.01.2024 was served on the petitioner only on 11.01.2024. The fifteen days time falls on 26.01.2024. 26.01.2024 was a National holiday. Even assuming that the fifteen days falls on 25.01.2024, it was also a public holiday. The next working day was 29.01.2024. That day happened to be a grievance day. On that day, the petitioner submitted her explanation in person. The first respondent, without considering the explanation, since it was submitted on grievance day, passed an order on the ground that the petitioner failed to submit any explanation on the show cause notice dated 08.01.2024. After passing the order, the petitioner was served with a notice dated 11.01.2024 to submit her explanation within a period of fifteen days.

8. According to the first respondent, the said explanation was submitted by the petitioner through her secretary. Even assuming that the said explanation was submitted through petitioner's secretary, the first respondent failed to consider the same while passing the order. It is a clear violation of principles of natural justice. In this regard, the learned counsel for the petitioner relied upon the Judgment of the Hon'ble Division Bench of this Court reported in **2009 (4) LW 778** in the



case of *The District Collector and Inspector of District Panchayat Villupuram*, in which this Court held that if the Inspector differs with the views expressed by the Village Panchayat and decides to remove the President or to drop the proceeding against the President, he is not only required to record the reasons for differing with the views of the Village Panchayat, but before taking any decision to remove the President, the Inspector is also required to provide further notice to the President intimating the reason for difference and can issue notification only on consideration of cause, if any, shown by the President.

9. Thus, it is clear that if the first respondent differs with the views of the village panchayat, the first respondent ought to have issued show cause notice and should have given an opportunity to the petitioner to explain. That apart, the first respondent ought to have stated the reasons for differing with the views taken by the village panchayat. On perusal of the show cause notice dated 08.01.2024, the first respondent differed with the views taken by the village panchayat only on the ground that the petitioner failed to submit any explanation for the charges framed as against the petitioner. Therefore, the charges framed against the petitioner were held proved and show cause notice came to be issued.



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10. Admittedly, the petitioner did not submit her explanation for the show cause notice dated 03.10.2023. Without even considering the request made by the petitioner, the first respondent directed the fourth respondent to convene a meeting on 13.12.2023. Therefore, no sufficient opportunity was given to the petitioner to submit her explanation even for the first show cause notice. The first respondent, while differing with the views taken by the village panchayat, must be given an opportunity of hearing to the petitioner before passing an order under Section 205(11) of the Tamil Nadu Panchayat Act. Admittedly, the petitioner was not given an opportunity of hearing and the first respondent did not even consider the explanation submitted by the petitioner. On both the grounds, the order impugned in this writ petition cannot be sustained and it is liable to be quashed.

11. In view of the above, the order passed by the first respondent dated 31.01.2024, is hereby quashed. The matter is remanded back to the first respondent for fresh consideration. The first respondent is directed to conduct enquiry, after issuance of notice to the petitioner afresh and after giving an opportunity of hearing to him, pass orders on



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merits and in accordance with law within a period of eight weeks from the date of receipt of a copy of this order. It is made clear that the petitioner can very well submit her explanation and other documents, if any, before the first respondent during enquiry.

12. In the result, this writ petition stands allowed.

Consequently, connected miscellaneous petition is closed. No costs.

14.10.2024

Internet: Yes
Index: Yes/No
Speaking/Non-speaking order
Neutral Citation : Yes/No
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To

1.The Inspector of Panchayat,
The District Collector,
Thiruvallur District.

2.The Assistant Director of Panchalyat(Panchayats),
Thiruvallur,
Thiruvallur District.

3.The Block Development Officer,
Vengathur Panchayat,
Kadambathur Union,
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4.The Tashildhar,
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Thiruvallur District.

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