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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HON'BLE Mr. JUSTICE C.V.KARTHIKEYAN

W.P.No.5194 of 2024
and WMP.No.5712 of 2024

Mahalakshmi

... Petitioner

Vs.

1. The Secretary
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai 600 009.

2. The Commissioner,
Tambaram Corporation
Muthuranga Mudali Street,
West Tambaram, Tambaram
Chennai, Tamil Nadu 600 045.

3. Jayapradeep

... Respondents

**R3 impleaded as order dated 18.10.2024 in WMP.33699 of 2024
in W.P.No.5194 of 2024 by GKIJ**

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the letter dated 12.02.2024 in Na.Ka.No.3454/2021/F1 issued by the 2nd respondent and quash the same and direct the respondents to conduct the



council meeting and take up the No Confidence Motion against the incumbent Chairman.

For Petitioner .. Mr.A.S.Aswin Prasanna

For Respondents .. Mr.T.Seenivasan
Special Govt.Pleader for R1
Mr.P.Srinivas for R2
M/s.Preethi Baskar for R3

ORDER

This writ petition has been filed for issuance of writ of certiorarified mandamus to call for the letter dated 12.02.2024 in Na.Ka.No.3454/2021/F1 issued by the 2nd respondent and quash the same and direct the respondents to conduct a council meeting and take up the No Confidence motion against the incumbent Chairman who had been subsequently impleaded as the third respondent.

2. The entire issue surrounds Zone – 3 which could also be termed as Ward 3 in Tambaram Corporation. It is contended that in Tambaram Corporation there are totally 5 zones, in each one of the zone there are 14 wards and in each one of the Wards there are elected councillors and they are 14 in number. The present issue relates to Zone 3. The petitioner is an elected councillor. The 3rd respondent is also an elected councillor. All the



councillors, after they are elected should select a Chairman. The 3rd respondent was selected as Chairman by the Councillors who had been elected.

3. In the writ petition, it had been contended that apart from the writ petitioner, eight other councillors had issued a No Confidence Motion against the third respondent for various reasons. They had sought the second respondent/The Commissioner, Tambaram Corporation, Tambaram, Chennai to convene a meeting of all the 14 members of the Zone - 3 to examine whether the No Confidence Motion could be passed or not. But unfortunately, by the impugned order dated 12.02.2024 their request was rejected by stating that under Section 51 of the Tamil Nadu Urban Local Bodies Act, 1998 a No Confidence Motion can be moved only against the Chairman of a Corporation and not against the Chairman of a particular ward or zone.

4. In this connection reliance had been placed on the definition of a Chairman as provided under Section 2(6) of the Act which is as follows:-

(a) in relation to a municipal corporation, the Mayor



and the Deputy Mayor, respectively

(b) in relation to a (municipal council), the Chairperson and Vice-Chairperson, respectively and

(c) in relation to town panchayat, the Chairperson and Vice Chairperson, respectively.

Placing reliance on the aforementioned definition it is contended that the definition does not bring under its ambit a Chairman of a particular zone and therefore the No Confidence Motion cannot be brought against such Chairman.

5. The learned counsel for the petitioner however widened the scope of arguments by placing reliance on the judgment of the Hon'ble Supreme Court reported in **(2015) 8 SCC** in the case of ***Vipulbhai M.Chaudhary Vs Gujarat Co-operative Milk Marketing Federation Limited and Others*** wherein at paragraph No.24 the Hon'ble Supreme Court had stated that when Constitution provides that a Co-operative Society has to function in a democratic manner and when the bye laws do not envisage a No Confidence Motion, the Court should read down that particular provision and step in to ensure that the elements of democracy prevail in the functioning of a Co-operative Society.



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6. Taking the same conclusion forward to a Corporation or more particularly to a zone within a Corporation, the learned counsel argued that since the councillors have elected the Chairman and if they have any grievance against him or her and seek to remove him or her from office, the only proper method is to bring about a No Confidence Motion. It is contended that such a motion had been brought to the notice of the second respondent with permission to convene a meeting to examine whether a No Confidence Motion could be taken forward or not.

7. On behalf of the 3rd respondent who had been subsequently impleaded, a counter affidavit had been filed wherein, the nature of allegations raised had been answered. But I am not entering into any discussion about the allegations raised by the petitioner as against the third respondent or the statements made by the third respondent in answer to such allegations. They are beyond the purview of this Court. The remit of this Court is only to examine whether a No Confidence Motion could be brought in a Zone as against a Chairman of that particular zone by the councillors.



8. The learned counsel for the second respondent pointed out Section 51 of the Tamil Nadu Urban Local Bodies Act, 1998 which provides for motion of a No Confidence against a Chairperson or Deputy Chairperson. After pointing out Section 51, the learned counsel drew the attention of this Court to Section 2 (6) of the Act which defines a Chairperson and a Deputy Chairperson and had very specifically stated that in relation to a Municipal Corporation it would be a Mayor or a Deputy Mayor and in relation to a Municipal Council, the Chairperson and Vice Chairperson and in relation to a Town Panchayat, the Chairperson and Vice Chairperson. It is therefore contended that a Chairperson of a zone is not brought within the ambit of the definition. The legislation has not thought it fit to permit a No Confidence Motion to be brought against the Chairperson of a zone.

9. But let me read down the provisions as stipulated by the Hon'ble Supreme Court. Every zone is a microscopic democratic entity. The councillors are elected by the people. Thereafter the councillors sit down and elect a Chairperson among them. It is required that the general public who voted for councillors expect that the functioning of the zone is also conducted in a democratic manner wherein, if grievances are raised against



the functioning of a Chairperson then the councillors must have the right to bring about a No Confidence Motion as against the Chairperson. It could be for various reasons but the right to bring about a No Confidence Motion cannot be denied.

10. In the instant case, it cannot also be argued that since Section 2 (6) of the Act speaks only about the Chairperson, Vice Chairperson, a No Confidence Motion cannot be brought against the Chairperson or Deputy Chairperson of a Municipal Corporation or a Town Panchayat and a zone. The definition can only be with respect to a broad category and not to every minute category. Once the councillors have elected a Chairperson they have an inherent right to ensure that they also have the right to bring about a No Confidence Motion against the person whom they themselves have elected. It is part of a democratic process. It is part of the expectation of the general electorate that if a Chairperson does not function according to the norms laid down, then the councillors can bring about a No Confidence Motion to examine whether he/she could continue to function as Chairperson or not to continue to function.



11. I would therefore hold that Section 51 of the Act, does not restrict the word Chairperson to only a Chairperson of a Municipal Corporation but would also include the Chairperson of a zone within the Municipal Corporation. As a matter of fact, both Sections 49 and 51 of the said Act come under chapter IV of the Act which relates to Council, Committee, Chairperson, Councillor, Commissioner and Constitution of Municipal service. Section 36 which immediately speaks about a Council, a Chairperson, a Standing Committee or Committee and the Commissioner. Therefore each one of those units, if they have a Chairperson within them, would come under the ambit of Section 51 of the Act. There cannot be an instance where elected representatives particularly chosen from among other elected members can function in a high handed manner and no steps can be brought in to bring them answerable or accountable to complaints.

12. The councillors have a right to move a No Confidence Motion just as they have a right to elect a Chairperson among them. To reiterate, I am not examining the nature of allegations made against the third respondent or the answers to the allegations by the third respondent in his counter affidavit. The Court has examined only the right of the petitioner to move a



No Confidence Motion.

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13. I hold that such a right is inbuilt with the fact that the petitioner had elected the third respondent to be the Chairperson of Zone 3. Therefore, the rejection by the 2nd respondent in their letter impugned before this Court that the petitioner has no inherent right to bring about a No Confidence Motion is set aside and I hold that the petitioner has every right to bring upon the No Confidence Motion

14. There is also a stipulation in Section 51 (12) about the number of members who should sign and present the No Confidence Motion. That is a stipulation which will have to be examined by the 2nd respondent to ensure whether the request seeking No Confidence Motion is within the four corners of the Act.

15. A time limit is also fixed that a No Confidence Motion should not be brought within one year from the date of election. That is again an issue which the 2nd respondent will have to examine.



16. The 2nd respondent however cannot reject the request to bring a No Confidence Motion. The various parameters involved in bringing in a No Confidence Motion alone can be examined by the second respondent but as a concept, the petitioner has a right to bring upon No Confidence Motion against the third respondent.

17. The impugned letter is therefore set aside. A direction is issued to the second respondent to once again examine whether the representation is in accordance with the provisions under Section 51 of the Act relating to the number of members who are authorised to bring upon the No Confidence Motion and with respect to the time period within which the said No Confidence Motion can be brought up. The petitioner and other members may present a fresh representation to the 2nd respondent and the 2nd respondent may examine the same in accordance with law without any demur.

18. With the above directions and observations the writ petition is disposed of. No costs.



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Index: Yes/No

Internet: Yes/No

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C.V.KARTHIKEYAN, J.

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To

1. The Secretary
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai 600 009.



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W.P.No.5194 of 2024

2. The Commissioner,
Tambaram Corporation
Muthuranga Mudali Street,
West Tambaram, Tambaram
Chennai, Tamil Nadu 600 045.

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