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W.P.No.5489 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.07.2024

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

**W.P.No.5489 of 2024 &
W.M.P.Nos.5202 and 6204 of 2024**

S.Venda

Vs.

... Petitioner

1. The Director / Commissioner of Rural
Development,
Panagal Building,
15, Jeenis Road, Saidapet,
Chennai - 15

2. The Inspector of Panchayat /
District Collector,
Collector Office,
Kancheepuram.

3. The Assistant Director,
(Panchayats)
Kancheepuram

4. The Block Development Officer,
Iyyengarkulam Panchayat
Kancheepuram

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.570/2023/A6/Vu.E.(voo) dated 31.01.2024 and quash the same as illegal and ultravires and consequently direct the respondents herein to



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forthwith restore the powers of the petitioner as President of the Iyyengarkulam Panchayat, Kancheepuram District.

For Petitioner : Mr.R.Jayaprakash for
Mr.K.Suthan
For Respondents : Mr.V.Ravi for R1 to R3
Mr.P.Sathish for R4

ORDER

This Writ Petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent in Na.Ka.No.570/2023/A6/Vu.E.(voo) dated 31.01.2024 and quash the same as illegal and ultravires and consequently direct the respondents herein to forthwith restore the powers of the petitioner as President of the Iyyengarkulam Panchayat, Kancheepuram District.

The brief facts of the case, as averred by the petitioner are as follows:-

(i) The petitioner is elected as President of Iyyengarkulam village Panchayat in Kancheepuram Panchat Union. One G.Krishnamoorthy /Complainant approached the petitioner during December, 2022 and requested for approval of his building plan. On receipt of the documents submitted by the said G.Krishnamoorthy, the petitioner informed that the approval cannot be granted for the building which has already been



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constructed. Subsequently, the said Krishnamoorthy again requested the petitioner for approval and according to him, on 14.03.2023, some vigilance officers came inside the office and stated that the petitioner had received bribe for the approval of the application and upon search, nothing was found and the petitioner was remanded before the learned Judicial Magistrate, Chengalpet.

(ii) Subsequent to the above incident, the 2nd respondent herein issued notice dated 15.03.2023 alleging that the petitioner and the Secretary were arrested on 14.03.2023 for receipt of illegal gratification and under Section 203 of Tamilnadu Panchayats Act, the Vice President, A.Somasundaram is appointed as President – in charge and also directed the vice chairman to appoint any person for making a joint signature to carry on financial transactions of the panchayat.

(iii) On 30.03.2023, the 3rd respondent issued a show cause notice calling for explanation on two charges framed against the petitioner and on the same date, the 2nd respondent, appointed the Deputy President, viz., A.Somasundaram as Temporary President and conferred authority to affix 1st signature / authority to sign the cheques to meet the expenses of the village panchayat. The petitioner also promptly filed a reply on 07.04.2023. By way of a proceedings dated 03.07.2023, the 3rd respondent indicated that since criminal proceedings is pending, on receipt of the advice from the government advocate and from the directorate, further course of action



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will be done.

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(iv) Since the respondents have failed to pass any appropriate orders and failed to restore the signing authority, the petitioner earlier filed W.P.No.33626 of 2023 to quash the proceedings of the 2nd respondent dated 03.07.2023. This Court had disposed of the same and the relevant portion is extracted hereunder:-

“In light of that fact situation, it shall be incumbent upon the first respondent, after affording full opportunity of personal hearing to the petitioner, to forthwith inform her regarding the exercise of review undertaken in terms of the proceedings in Na.Ka.No.570/2023/A6/Vu.E.(voo) dated 30.03.2023, within a period of 10 days from the date of receipt of copy of this order and depending upon its outcome, the petitioner may, if necessary, pursue her available remedies before the proper forum in accordance with law...”

After the disposal of W.P.No.33626 of 2023, under letter dated 12.01.2024, the petitioner received summon from the 3rd respondent directing the petitioner to appear for personal hearing on 18.01.2024 at 3.00 p.m., and the petitioner attended the personal hearing and submitted the written submissions on 18.01.2024. While that being so, the 2nd respondent vide proceedings in Na.Ka.No.570/2023/A6/Vu.E.(voo) dated 31.01.2024 extended operation of earlier order dated 30.03.2023 for another another period of six months thus extended the period of appointment of temporary president and signing authority given to them for another period of six



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months.

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(v) The 2nd respondent mechanically passed the order based on the wrong allegations, hence this petition.

3. The learned counsel for the petitioner contends that the 2nd respondent failed to note, consider and appreciate the detailed written reply dated 18.01.2024 and oral submissions of the petitioner, which is per se illegal. Further, the order passed by the 2nd respondent is not in accordance with Section 230(2) of the Tamilnadu Panchayats Act, hence the same warrants interference of this Court.

4. The learned counsel for the petitioner further contends that the motivated criminal case pending against the petitioner is not a bar on the petitioner to act as a President of the Panchayat and the powers conferred under Section 188 or under Section 203 of Tamilnadu Panchayats Act, 1944 and the same were improperly exercised by the 2nd respondent, hence this petition.

5. On the contrary, a detailed counter has been filed by the 2nd respondent on behalf of respondents 1 and 3, wherein it is averred that in compliance to the order passed in W.P.No.33626 of 2023, a personal



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hearing was afforded to the petitioner on 18.01.2024 and the 2nd respondent has granted permission to proceed criminal proceedings against the petitioner vide Lr.No.570/2023/A6A.D (PTS) dated 31.01.2024. Further, as per Section 230(2) of Tamilnadu Panchayat Act, 1994, when sanction of prosecution is granted to proceed criminal action under Section 7(a) of Vigilance and Anti-corruption Act, 1988 against Village Panchayat President, the concerned Panchayat President should not be permitted to discharge duties as Village President till the criminal proceedings is over, hence pleaded that the above petition is devoid of merit and seeks to dismiss the petition.

6. Heard the learned counsels on either side and perused the documents placed on record.

7. On going through the typed set of papers and the documents placed on record, it is seen that the petitioner was arrested only after thorough verification, wherein based on the information received indicating that the petitioner has received the amount of Rs.15,000/- as bribe for granting approval of the said land, the Vigilance and Anti-Corruption team along with other official witness, entered the panchayat office. The complainant identified the petitioner and when the petitioner was asked about the money obtained from the complainant, she has stated that it was



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kept in the steel almirah placed in the office. The petitioner has also admitted the demand and acceptance and she stated that the said amount was received to issue the building plan approval, demand notice and for other expenses.

8. It is pertinent to point out that the 2nd respondent being the competitive authority, removed the petitioner from her office only after fully and carefully examining all the materials such as the copies of FIR, statements of Witnesses, Entrustment Mahazar, seizure mahazar and other concerned documents in respect of the allegation. Therefore, the 2nd respondent has accorded sanction as required under Section 19(1)(c) of the Prevention of Corruption Act, 1988, as amended in 2018 to prosecute the petitioner. Also, as per Section 230(2) of Tamilnadu Panchayat Act, 1994, when sanction of prosecution is granted to proceed criminal action under Section 7(a) of Vigilance and Anti-corruption Act, 1988 against Village Panchayat President, the concerned Panchayat President should not be permitted to discharge duties as Village President till the criminal proceedings is over, hence the impugned order passed by the 2nd respondent is perfectly valid in the eye of law.

9. In the light of the detailed discussions as mentioned supra, this Court is of the view that the proceedings of the 2nd respondent in Na.Ka.No.570/2023/A6/Vu.E.(voo) dated 31.01.2024 does not suffer from



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any legal infirmities in the eye of Law. Resultantly the present Writ Petition is devoid of merits.

In the result the Writ Petition is dismissed. Consequently connected miscellaneous petitions are closed. No costs.

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Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
ssd

To

1. The Director / Commissioner of Rural Development,
Panagal Building,
15, Jeenisi Road, Saidapet,
Chennai - 15
2. The Inspector of Panchayat /
District Collector,
Collector Office,
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3. The Assistant Director,
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V.BHAVANI SUBBAROYAN J.

ssd

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