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W.P.No.6304 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.6304 of 2024 and
WMP.Nos.7004 & 7007 of 2024

B.Priya

... Petitioner

Vs.

- 1.The State Rep. By
The Principal Secretary to Government,
Rural Development and Panchayatraj Department,
Secretariat,
Chennai 600 009
- 2.The District Collector,
Salem District,
Salem 636 001
- 3.The Assistant Director of Panchayat,
Collectorate Campus,
Salem District 636 102
- 4.The Revenue Divisional Officer,
Attur,
Salem District 636 102
- 5.The Block Development Officer,
Gangavalli Panchayat Union,
Gangavalli Taluk,
Salem District 636 105
- 6.Vijendran

... Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India praying to issue a writ of certiorarified mandamus calling for the



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records of the impugned Gazette Notification No.50 dated 16.02.2024 and quash the same and consequently direct the 2nd and 4th respondents to follow the procedures as contemplated by the Tamilnadu Panchayat Act, 1994 and Rules.

For Petitioner : Mr.C.Prakasam
for M/s.S.Vinodha

For Respondents

For R1 to 4 : Mr.P.Kumaresan,
Additional Advocate General
Assisted by
Mr.P.Ganesan,
Additional Government Pleader

For R5 : Mrs.R.Anitha

For R6 : Mr.A.Rajakumar

ORDER

This writ petition has been filed as against the gazette notification No.50 dated 16.02.2024 on the file of the first respondent thereby removed the petitioner from the Office of the Chairman.

2. The petitioner was elected as Union Councillor in the year 2020 for the Gangavalli Panchayat Union, Salem District. Among the Union Councillors, the petitioner was elected as Union Chairman with



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the support of the majority councillors. The Gangavalli Panchayat Union of Salem District consists of 11 Panchayat Union Wards and all the Panchayat Union ward members had elected the petitioner as Chairman. However, the petitioner did not perform her duties satisfactorily for the Panchayat Union administration and also she misused the general fund of the Panchayat Union. Therefore, the sixth respondent lodged complaint to the second respondent to conduct no confidence motion as against the petitioner. The said complaint was supported by totally nine councillors out of 11 to conduct no confidence motion. On receipt of the same, the petitioner was issued with notice dated 16.11.2023. However, the residence of the petitioner was found locked and she was informed through her mobile and also the same was served by affixing in the main door in the presence of the Village Administrative Officer. It was also photographed and videographed.

2.1 The show cause notice was initially served by affixture on 16.11.2023 and thereafter, it was served personally on 20.11.2023. Thereafter, the petitioner failed to submit any explanation. As such, a



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meeting was convened, in which 10 out of 11 councillors including the petitioner participated in the meeting. All the councillors were given ample opportunity to cast their votes on the no confidence motion either through ballot or through raising hands. All the ward members have preferred their voting by raising their hands. Accordingly, the fourth respondent called for the voting of the Panchayat Union ward members in support of the petitioner, but no one responded. Therefore, it was concluded that no confidence motion moved against the petitioner was accepted and the fourth respondent by its proceedings dated 18.12.2023 submitted the same to the second respondent. Thereafter, it was published in the gazette notification, pursuant to which the fifth respondent acted as Chairman and now new chairman has been elected for the said Gangavalli Panchayat Union.

3. The learned counsel for the petitioner would submit that the provision under Section 212(3) of Tamilnadu Panchayats Act, 1994 (hereinafter called as 'the Act') was not complied with and the petitioner was not even served with any charge. No confidence motion was held



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behind the petitioner since the petitioner was not served with any charge memo. The petitioner was admitted for delivery of her child. The petitioner had undergone cesarean and gave birth to a child. Therefore, the petitioner could not able to submit explanation within the time.

4. Heard, the learned counsel appearing on either side and perused all the materials placed before this Court.

5. Section 212 of the Act provides for passing of a motion expressing want of confidence in the Chairman or Vice Chairman of a Panchayat Union Council. As per Sub-Section 1 of Section 212 of the Act, a motion expressing want of confidence in the Chairman or Vice Chairman of a Panchayat Council may be made in accordance with the procedure laid down under Sub-Sections 2, 3, 4, 5, 8, 9, 10, 11 and 12 of Section 212. It is relevant to extract the provision under Section 212 of the Tamilnadu Panchayats Act, 1994 hereunder:

212. Motion of no confidence in Chairman or Vice-Chairman of Panchayat Union Council -

(1) Subject to the provisions of this section, a motion



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expressing want of confidence in the Chairman or Vice-Chairman of a Panchayat Union Council may be made in accordance with the procedure laid down herein.

(2) Written notice of intention to make the motion, signed by members of the Panchayat Union Council not less in number than three-fifth of the sanctioned strength of the Panchayat Union Council, together with a copy of the motion which is proposed to be made and a written statement of the charges against the Chairman or Vice Chairman, shall be delivered in person to the Revenue Divisional Officer of the division by any two of the members of the Panchayat Union Council signing the notice.

(3) A copy of the statement of charges along with the motion shall be caused to be delivered to the concerned Chairman or Vice-Chairman by the Revenue Divisional Officer and the Chairman or Vice-Chairman shall be required to give a statement in reply to the charges within a week of the receipt of the motion by the Chairman or Vice-Chairman.

(4) The Revenue Divisional Officer shall then convene a meeting for the consideration of the motion at the office of the Panchayat Union Council at a time appointed by him.

(5) The Revenue Divisional Officer shall give to the members notice of not less than fifteen clear days of the meeting and of the time appointed therefor.

(6) The Revenue Divisional Officer shall preside at the meeting convened under this section, and no other person



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shall preside thereat. If within half an hour after the time appointed for the meeting, the Revenue Divisional Officer is not present to preside at the meeting, the meeting shall stand adjourned to a time to be appointed and notified to the members by the Revenue Divisional Officer under sub-section (7).

(7) If the Revenue Divisional Officer is unable to preside at the meeting, he may, after recording his reasons in writing adjourn the meeting to such other time as he may appoint. The date so appointed shall not be later than thirty days from the date appointed for the meeting under sub-section (4). Notice of not less than seven clear days shall be given to the members of the time appointed for the adjourned meeting.

(8) Save as otherwise provided in sub-sections (6) and (7), a meeting convened for the purpose of considering a motion under this section shall not for any reason be adjourned.

(9) As soon as the meeting convened under this section has commenced, the Revenue Divisional Officer shall read to the Panchayat Union Council the motion for the consideration of which it has been convened, the statement of charges and the statement, if any, of the Chairman or Vice-Chairman in reply to the said charges.

(10) There shall be no debate on any motion under this section.



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(11) The Revenue Divisional Officer shall not speak on the merits of the motion, nor shall he be entitled to vote thereon.

(12) A copy of the minutes of the meeting together with a copy of the motion and the result of the voting thereon shall forthwith on the termination of the meeting be forwarded by the Revenue Divisional Officer to the Government.

(13) If the motion is carried with the support of not less than four-fifth of the sanctioned strength of the Panchayat Union Council, the Government shall, by notification, remove the Chairman or Vice-Chairman of the Panchayat Union Council.

(14) If the motion is not carried by such a majority aforesaid, or if the meeting cannot be held for want of the quorum referred to in sub-section (13), no notice of any subsequent motion expressing want of confidence in the same Chairman or Vice-Chairman shall be received until after the expiry of one year from the date of the meeting.

(15) No notice of a motion under this section shall be received,-

- (i) within one year of the assumption of office by; or
- (ii) during the last year of the term of office of Chairman or Vice Chairman.

6. Therefore, it should be carried out by $\frac{3}{5}$ of the sanctioned strength of the Panchayat Union Council. The provisions provide the



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right to move the motion of no confidence, which vest on the members of the Panchayat Union Council who elected the Chairman and its recall of the Chairman by the electorate itself. The elected representative is accountable to his electorate, which has the inherent power to recall. Section 212 of the Act also provides to remove the elected representative who has lost confidence of the body which elected the Chairman.

7. As stated supra, after receipt of the complaint from 3/5 of the elected councillors, the petitioner was served with show cause notice. Thereafter, on 18.12.2023, meeting was convened, in which 10 out of 11 panchayat union ward members participated including the petitioner, and 9 ward members supported the no confidence motion against the petitioner. Therefore, there is no violation in the procedure followed by the fourth respondent. After the meeting, the fourth respondent had sent its report of minutes of the meeting to the Government. Thereafter, the fifth respondent had received the gazette notification on 20.02.2024. Immediately, the same was delivered to the petitioner on 21.02.2024.



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8. In view of the above, this Court finds no infirmity or illegality in the impugned Gazette Notification. As such, this writ petition is liable to be dismissed. Accordingly, this writ petition is dismissed. Consequently, connected miscellaneous petitions are closed. There shall be no order as to costs.

19.08.2024

Neutral citation: Yes/No

Index: Yes/No

Speaking/Non-speaking order
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To

- 1.The Principal Secretary to Government,
Rural Development and Panchayatraj Department,
Secretariat,
Chennai 600 009
- 2.The District Collector,
Salem District,
Salem 636 001
- 3.The Assistant Director of Panchayat,
Collectorate Campus,
Salem District 636 102
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G.K.ILANTHIRAIYAN, J.

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