



W.P.No.8167 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.09.2024

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

W.P.No. 8167 of 2024

and

W.M.P.No. 9114 of 2024

S.Sathyapriya

... Petitioner

Vs.

1.The District Collector-cum-Inspector of Panchayat,
Erode District, Erode.

2.The Assistant Director (Panchayat),
Collectorate, Erode.

3.The Block Development Officer (Town Panchayat),
Chennimalai - 638051,
Erode District, Erode.

4.The Zonal Deputy Block Development Officer,
Chennimalai Union (Zone 2),
Erode District, Erode.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to Na.Ka.en.25/2022/A3 dated 01.03.2024 passed by the first respondent and quash the same in so far as withdrawing the signing powers



W.P.No.8167 of 2024

of the petitioner in cheques and PFMS (Public Financial Management Service) forms of the Punjai Palatholuvu Panchayat, Chennimalai, Erode District as illegal Arbitrary and non-est in the eyes of law and consequently direct the first respondent to restore the signing power to the petitioner in cheques, PFMS forms and panchayat bank accounts.

For Petitioner : Mr.R.Jaikumar

For Respondents : Mr.C.Kathiravan
Special Government Pleader for R1 & R2
Mr.P.Ganesan
Government Advocate for R3 & R4

ORDER

This Writ Petition has been filed, challenging the order passed by the 1st respondent dated 01.03.2024 thereby, withdrawing the cheque signing powers of the petitioner and Public Finance Management Service forms of the Punjai Palatholuvu Panchayat, Chennimalai, Erode District

2. On perusal of the order passed by the 1st respondent revealed that the cheque signing power of the petitioner has been withdrawn for a period of three months from the date of the order i.e., 01.03.2024. Now the three months time has been expired. Even then, the petitioner is not permitted to



W.P.No.8167 of 2024

sign the cheques on behalf of Punjai Palatholuvu Panchayat, Chennimalai, Erode District.

3. The learned counsel appearing for the petitioner would submit that apart from that the impugned order has been passed under Section 203 of the Panchayat Act, in order to invoke the provisions under Section 203, the petitioner should have been given an opportunity of hearing. In this regard, he relied upon the judgment of the Hon'ble Division Bench of this Court in W.P.No.27855 of 2022 etc., batch dated 12.09.2024. The learned counsel for the respondents would submit that apart from the proceedings under Section 203 of the Panchayats Act, the enquiry is pending against the petitioner under Section 205 of the Panchayats Act.

4. It is relevant to extract Section 203 of the Tamil Nadu Panchayats Act, 1994:-

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



WEB COPY



W.P.No.8167 of 2024

[Secretary] [See Rules issued in G.O. Ms. No. 148, Rural Development (C4), dated 31st May, 2001 and published in Part III, section 1(a), of the Tamil Nadu Government Gazette Extraordinary, dated 1st June, 2001.] 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 petitioner is a Vice President of Punjai Palatholuvu Panchayat. Due to complaints, the cheque signing power has been withdrawn by invoking the jurisdiction under Section 203 of the Tamil Nadu Panchayats Act by the 1st respondent. The power to invoke the cheque signing authority of the elected Vice-President under Section 203 of the Act, though has been upheld with a reservation, that order cannot be passed without following the principles of natural justice.

6. Admittedly, the petitioner was not served with any show cause



W.P.No.8167 of 2024

notice before invoking Section 203 of the Panchayats Act. It is relevant to rely upon the judgment of this Court in W.P.No.27855 of 2022 etc., batch dated 12.09.2024 in which, the Division Bench held as follows:-

"(25) From the examination of the provisions of the Act as well as the precedents, we have above referred to, the conclusion inescapable is that the Inspector of Panchayat enjoins a power to revoke the cheque signing authority temporarily in case the circumstances contemplated under Section 203 of the Act exist. In a case where the President or Vice President refuses to sign cheque and thereby trying to delay execution of any work or doing of any act which a Panchayat or Executive Authority or Commissioner is empowered to execute. However, in a case where there are mere allegations of misappropriation, mismanagement or other allegations which warrant the Inspector of Panchayat to take action under Section 205 of the Act, the emergency power cannot be exercised under Section 203 of the Act to withdraw or suspend the cheque signing authority of elected President or Vice President of the Panchayat."

7. In the case on hand, the petitioner is the elected Vice President and the petitioner was not served with any prior notice and not given opportunity



W.P.No.8167 of 2024

before passing the order under Section 203 of the Panchayats Act.

Therefore, it is clear that the order was passed without following the principles of natural justice and it cannot be sustained. That part, the period, for which, the cheque signing power was withdrawn by the 1st respondent also expired.

8. In view of the above, the order passed by the 1st respondent is quashed. The respondents are directed to permit the petitioner to sign the cheques of Punjai Palatholuvu Panchayat forthwith.

9. This Writ Petition is allowed with the above directions. No costs. Consequently, connected miscellaneous petition is closed.

25.09.2024

kkn

Internet : Yes/No

Index : Yes/No

Speaking order: Yes/No

Neutral Citation: Yes/No

To

1. The District Collector-cum-Inspector of Panchayat,

6/8



W.P.No.8167 of 2024

Erode District, Erode.

2.The Assistant Director (Panchayat),
Collectorate, Erode.

3.The Block Development Officer (Town Panchayat),
Chennimalai - 638051,
Erode District, Erode.

4.The Zonal Deputy Block Development Officer,
Chennimalai Union (Zone 2),
Erode District, Erode.

G.K.ILANTHIRAIYAN, J.

KKN



WEB COPY



W.P.No.8167 of 2024

W.P.No. 8167 of 2024
and
W.M.P.No. 9114 of 2024

25.09.2024