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W.P.No.9453 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2024

CORAM:

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

W.P.No.9453 of 2024
and
W.M.P.No.10449 of 2024

G.Prabhu

.... Petitioner

Vs

1. The Inspector of Panchayats cum
District Collector,
Perambalur District,
Perambalur District.

2. The Block Development Officer,
Veppanthattai Block,
Perambalur District.

3. The Vice President,
V.Kalathur Village Panchayat,
Veppanthattai Block,
Perambalur District.

.... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying for the issuance of a Writ of Certiorari calling for the records relating to the impugned order vide proceedings in Se. Mu. No.420/ 2024/ A3 dated 15.03.2024 passed by the 1st respondent and set aside the same as illegal.



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For Petitioner : Mr.M.Subash
For R1 : Mr.V.Manoharan
Additional Government Pleader
For R2 & R3 : Mr.V.Nanmaran
Additional Government Pleader

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 15.03.2024, thereby cancelling the power of issuance of cheque under Section 203 of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as “the Act”).

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

3. The petitioner was elected as president of V.Kalathur Village Panchayat, Perambalur District. The petitioner has been acting as a President from 06.01.2020. Due to political vendetta, several complaints have been received from the petitioner by the first respondent. On the said complaints, the first respondent passed an order under Section 203 of the Act, thereby cancelling the power of issuance of cheque.

4. The learned counsel appearing for the petitioner would



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submit that the petitioner was not served with any show cause notice and without giving an opportunity of hearing, the first respondent, by the impugned order, cancelled the power of issuing cheque authority. That apart, the first respondent had no jurisdiction to cancel the cheque issuing power to the Village President. After serving the order under Section 203 of the Act, the petitioner was also issued with a show cause notice under Section 205 of the Act. Even till today, the petitioner did not submit any reply for the said show cause notice. There are so many irregularities and as such, the first respondent rightly cancelled the cheque issuing authority.

5. It is relevant to extract the provision under Section 203 of the Act, which reads as follows :

“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 Secretary is empowered to execute or do, and the immediate



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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”.

6. The powers conferred upon the first respondent under Section 203 of the Act is not intended to act as authority to take disciplinary proceedings against the President or Vice President. The Government wanted the activities of the panchayats to be taken up emergently, without obtaining formal orders from the panchayat or executive authority. In case the first respondent is of the view that the execution of a particular work is imminent or the doing of particular thing is necessary for the safety of the public, it is open to him to take up such works without the association of the panchayat or executive authority. Further, in case emergent action is necessary, and it is not practically possible to obtain the sanction of the village panchayat or the panchayat union council, it is open to the executive authority or the Commissioner to execute such work and to pay the expenses of executing such work out of



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the village panchayat fund or the panchayat union fund, as the case may be. Therefore, the first respondent cannot act as an extra constitutional authority over democratically elected President and Vice President of the panchayat. In case the elected president or vice president indulges in acts of misuse of authority and the cheque signing power should be taken away, it is for the legislature to incorporate appropriate provisions to confer such express powers of suspension on the first respondent. Further, the first respondent is given power under Section 205 of the Act to remove the President from office. Similar powers are given under Section 206 of the Act for the purpose of removal of Vice President. Therefore, it is clear that the first respondent has no power under Section 203 of the Act to take away the cheque signing power of the President and the Vice President.

7. In view of the above, the impugned order passed by the first respondent cannot be sustained and it is liable to be quashed. Accordingly, the order passed by the first respondent dated 15.03.2024, is hereby quashed.

8. In the result, this Writ Petition stands allowed. Consequently, connected miscellaneous petition is closed. No costs.



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

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Perambalur District,
Perambalur District.

2. The Block Development Officer,
Veppanthattai Block,
Perambalur District.

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G.K.ILANTHIRAIYAN. J.

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