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W.P.No.21251 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.07.2024

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

W.P.No.21251 of 2024

and

W.M.P.No.23208 of 2024

Sindhan

...Petitioner

Vs.

1. The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, Chennai – 28.

2. The District Collector,
Kanchipuram.

3. The Commissioner,
Kanchipuram City Municipal Corporation,
Hospital Road, Kancheepuram – 631 502.

4. M.Mahalakshmi

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records in impugned order passed by 3rd respondent in Na.Ka.No.4678/2024/C2 dated 09.07.2024 and quash the same and consequently direct the 3rd respondent to convene the meeting to prove the majority for the 4th respondent in Council, Kanchipuram City Municipal Corporation based on the petitioner representation dated 24.07.2024.

For Petitioner : Mr.A.K.Sriram



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For Respondents

Senior Advocate
: Dr.T.Seenivasan
Special Government Pleader for R1
Mr.N.Naveenkumar for R2
Government Advocate
Mr.P.Srinivas for R3.

ORDER

By consent of both parties, this writ petition is taken up for final disposal at the stage of admission itself.

2. This Writ Petition has been filed to call for the records in impugned order passed by 3rd respondent in Na.Ka.No.4678/2024/C2 dated 09.07.2024 and quash the same and consequently direct the 3rd respondent^d respondent to convene the meeting to prove the majority for the 4th respondent in Council, Kanchipuram City Municipal Corporation based on the petitioner's representation dated 24.07.2024.

3(a). The case of the petitioner is that the petitioner is the 41th Ward Councilor, Education Committee Member, Kanchipuram City Municipal Corporation, Kanchipuram. He has been elected in the local body election held in the year, 2022. It is submitted that the 4th respondent's husband



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forcefully collecting money from the general public in Kanchipuram by abusing the power of the 4th respondent and the same was intimated to the 4th respondent where she failed to warn the same. Also the 4th respondent has ordered the government officials not to solve the issues raised in the Ward. Hence, the public were affected severely due to the mal-administration of the 4th respondent. Hence, majority of the councilors have given complaint to the respondents 2 and 3, but no action was taken. The 4th respondent have failed to convene the meeting since January 2024 and the 4th respondent have left the meeting without any intimation. But in the notice board, it was mentioned that the meeting scheduled to be held on 12.03.2024 will be conducted on 13.04.2024. On that day, less than 10 members alone participated in meeting. Therefore, no meeting could be held and the Mayor left the meeting without intimation. There are several irregularities committed by the Mayor.

3(b). The petitioner and 33 councilors have given letter dated 07.06.2024 to the 3rd respondent to prove the majority for the 4th respondent in Council, Kanchipuram City Municipal Corporation by following the rules specified under the Act. But the said requisition letter



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was rejected by the 2nd respondent in Na.Ka.No.4678/2024/C2 dated 28.06.2024 alleging falsely that the rules were not followed in submitting the representation and refused to take action on the same. Without stating any valid reason, the 3rd respondent has rejected the plea and hence, detailed explanation was given denoting that the letter was signed by the 3/5th majority and the same was submitted by two councilors in the office of the 3rd respondent. But arbitrarily, the impugned notice was issued on 09.07.2024 announcing that the “No Confidence Motion” will be conducted on 29.07.2024.

3(c). It is further submitted that there are 51 Councilors in the Council, Kanchipuram City Municipal Corporation. The 33 Councilors have given the representation to 3rd respondent seeking the 4th respondent to prove the majority in Council. To protect the 4th respondent and her post, the 3rd respondent has rejected the petitioner's plea and has announced that the “No Confidence Motion” will be conducted and the votes will be taken on 29.07.2024. He further submitted that the 4th respondent has failed to convene the meeting by cancelling the same for several hearings due to lack of Quorum. Hence the application given to



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the 3rd respondent to direct the respondent to convene the meeting for proving the majority in favour of the 4th respondent but contradictorily the “No Confidence Motion” meeting is announced. As per Rule 52 (12) of Tamil Nadu Urban Local Bodies Act, 1998, the 4/5th support is necessary to remove the 4th respondent from the Council but have only 33 Councilors.

3(d). It is further submitted that 33 Councilors have given their affidavit voluntarily expressing their dissatisfaction over the 4th respondent/ Mayor. If the “No Confidence Motion” meeting is convened on 29.07.2024 and if there is no majority of 4/5th Councilors and if there is want of Quorum then as per Section 51 (13) of Act, 1998 the subsequent motion of expressing the want of confidence cannot be received by the 3rd respondent until after the expiry of one year from the date of meeting. Hence the petitioner demanded the 4th respondent to prove her majority in the Council, Municipal Office.

4. Learned counsel for the 3rd respondent would submit that as per Section 51-'Motion of No confidence in Chairperson or Deputy Chair



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Person' , he has received the said application and the application was not submitted in person and hence returned the same. At later point of time, the Council has submitted the same in person and the same was received by him and accordingly meeting date was announced by him on 09.07.2024 stating that as per the Section 51 (2) (3), Council Members issued the said petition for 'no confidence motion' and election would be conducted on 29.07.2024 at 10.00 a.m., at Anna Arangam, Chennai.

5. On going through the documents placed on record, it is seen that the petitioner is worried only about the letter issued by the Corporation Commissioner, Kanchipuram, wherein the Commissioner has given the information to Praveenkumar, 34th Ward Councilor in which it is stated that the petition to the Chief Minister Special Cell in No.8405653 dated 12.07.2024 in Na.Ka.No.4856/2024/C2 dated 16.07.2024, information has been given to the petitioner indicating that the meeting is scheduled on 29.07.2024. In the petition, the claim made was only regarding the removal of petition by brining no confidence motion and for that, all the council members seek for convening a meeting but in the letter as if they want the said petitioner to show her majority. The respondents have



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already considered the same and issued notice for convening the meeting on 29.07.2024.

6. Regarding the proof of majority, notice has been issued and the authority also stated to conduct Mandra Kootam and the petitioner submit it is only on 'No confidence Motion'. This is contrary to each other.

7. When, the notice was sent to the petitioner, it has been made clear that on 09.07.2024 regarding conduct of the meeting for 'no confidence motion' on the said subject and conduct election for the same, it has been posted to 29.07.2024. The petitioner need not consider the letter issued by the Commissioner as reply which has been forwarded from the Chief Minister Special Cell dated 09.07.2024, from which it is clear wherein the petitioner has been directed to be present on 29.07.2024 for discussion/debate on the 'no confidence motion' and further to conduct election/voting on the motion on that date. The petitioner's apprehension is not warranted and the petitioner can appear for the said meeting and they can participate in the meeting conducted by the Commissioner on "No Confidence Motion" against the 4th respondent in



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manner known to law.

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8. With the above direction, this Writ Petition is disposed of.

Consequently, connected miscellaneous petition is closed. No costs.

Gv

26.07.2024

Index: Yes/No

Speaking order/Non-speaking order

Note: Issue order copy on 26.07.2024

To

1. The Commissioner of Municipal Administration,
No.78, Urban Administrative Building,
Santhome High Road, Chennai – 28.
2. The District Collector,
Kanchipuram.
3. The Commissioner,
Kanchipuram City Municipal Corporation,
Hospital Road, Kancheepuram – 631 502.
4. The Public Prosecutor
High Court, Madras.
Chennai.

V.BHAVANI SUBBAROYAN.,J.

Gv



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