



W.P.No.26149 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.09.2024

CORAM:

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

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J.Kumaravel

... Petitioner

-Vs-

1. The Add. Chief Secretary,
Government of Tamil Nadu,
Secretariat, Chennai-600 009.
2. The Principal Secretary,
Municipal Administration And Water Supply,
Secretariat, Chennai-600 009.
3. The Director,
Municipal Administration,
Santhome High Road,
M.R.C. Nagar,
Pattinapakkam, Chennai-600 028.
4. The District Collector,
Chengalpattu District, Chengalpattu.
5. The Commissioner,
Nadivaram- Guduvancherry Municipality,
Guduvancherry.
6. The Vice President,
Nadivaram- Guduvancherry Municipality,
Guduvancherry,
Chengalpattu District.

... Respondents

Prayer : Writ Petition filed under Article 226 of Constitution of India praying



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for the issuance of a Writ of Mandamus, directing the first and second respondents to take action against the 6th respondent under Section 50 (1) (d) of the Tamil Nadu District Municipality Act, 1920 and Section 32 (1) (e) of The Tamil Nadu Urban Local Bodies Act- 1998 pursuant to the order passed by the Ombudsman of Tamil Nadu Local Bodies in order No.341/Na/2023 dated 04.01.2024 and the Petitioner representation dated 01.07.2024.

For Petitioner : Mr.D.Raja
For R1 to R5 : Mr.N.Naveen Kumar
Government Advocate
For R6 : Mrs.Karthika Ashok

ORDER

This writ petition has been filed for direction directing the first and second respondents to take action as against the 6th respondent under Section 50 (1) (d) of the Tamil Nadu District Municipality Act, 1920 and Section 32 (1) (e) of The Tamil Nadu urban Local Bodies Act- 1998 pursuant to the order passed by the Ombudsman of Tamil Nadu Local Bodies in order No.341/Na/2023 dated 04.01.2024 and the Petitioner representation dated 01.07.2024.

2. Heard both sides and perused the materials available on record.

3. The petitioner is the 8th Ward Counselor of Nadivaram-Guduvancherry Municipality, Chengalpattu. The 6th respondent is the Vice President of the same Panchayat. While being so, the wife of the 6th respondent participated in



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the public auction to the shops which belongs to the Nadivaram-Guduvancherry Municipality and she was allotted Shop No.14 for running Advocate office for a period of nine years, vide Resolution No.2 dated 25.01.2023 and it is violation of the provisions under Section 50(1)(d) of the Tamil Nadu Municipalities Act, 1920. Therefore, the petitioner submitted a complaint before the Ombudsman of Tamil Nadu Local Bodies. After due enquiry, the Ombudsman of Tamil Nadu Local Bodies, by an order dated 04.01.2024 directed the Municipality to take appropriate action as against the 6th respondent. Pursuant to the said order, the 5th respondent issued show cause notice as against the 6th respondent. It is under challenge in O.P.No.140/2024, on the file of the Principal District Court, Chengalpet. It is pending for adjudication.

4. It is relevant to extract the provisions under Section 32 (1)(e) of the Tamil Nadu Urban Local Bodies Act, 1998 as follows:-

“ 32. (1) Subject to the provisions of section 35, a councillor or a Chairperson shall cease to hold office as such, if he;-

(e) subject to the proviso to clause (c) of sub-section (6) of Section 12, acquires any interest directly or indirectly, by himself or his partner in any subsisting contract made with or work being done for the Municipality. ”

5. Therefore, disqualification of Section 32 is subject to the provisions of Section 35. It is relevant to extract the provisions under Section 35 of the Tamil



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Nadu Urban Local Bodies Act, 1998 as follows:-

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“ 35. Decision on question of disqualification of councillor or Chairperson.—(1) *Whenever it is alleged that any person who has been elected as a councillor or Chairperson is disqualified under section 12, or section 31, or section 32 and such person does not admit the allegation or whenever any councillor or chairperson is himself in doubt whether or not he has become so disqualified for office, such councillor or Chairperson or any other councillor may and the Commissioner, at the request of the council or Chair-person or a direction from the Government or Tamil Nadu State Election Commission, shall apply to the Principal District Judge of the District in which the municipality is situated.*

(2) The said Principal District Judge, after making such inquiry as he deems necessary, shall determine whether or not such person is disqualified under section 12, section 31, or section 32.

(3) Pending the decision under sub-section (2), the councillor or Chairperson shall be entitled to act as if he was not disqualified.”

6. Accordingly, as directed by the Ombudsman of Tamil Nadu Local Bodies, the fifth respondent issued show cause notice and the same is under challenge under Section 35(1) of the Tamil Nadu Urban Local Bodies Act, 1998 before the Principal District Court, Chengalpet. Accordingly, pending decision, the 6th respondent shall be entitled to act as if he was not disqualified. When the District Court has taken cognizance of the challenge made as against the show cause notice issued by the fifth respondent, the representation submitted by the petitioner to take appropriate action as against the 6th respondent as contemplated under Section 50 (1) (d) of the Tamil Nadu District Municipality



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Act, 1920 and Section 32 (1) (e) of The Tamil Nadu Urban Local Bodies Act-

1998 cannot be considered till the disposal of the adjudication pending before the District Court.

7. In view of the above, this writ petition is devoid of merits and is liable to be dismissed. However, the fourth and fifth respondents are directed to take appropriate action as against the 6th respondent subject to the result of the O.P.No.140/2024, on the file of the Principal District Court, Chengalpet, in the manner known to law.

8. Accordingly, this writ petition stands dismissed. No costs.

10.09.2024

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

G.K.ILANTHIRAIYAN. J,

mn

To

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Government of Tamil Nadu,



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