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W.P.No.28261 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2024

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THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

W.P.No.28261 of 2024
and
W.M.P.No.30803 of 2024

R.Janarthanan Petitioner

Vs

1.The District Collector / The Inspector of Panchayat
Kallakurichi District,
Kallakurichi.

2.The Assistant Director (Panchayats),
Kallakurichi,
Kallakurichi District.

3.Block Development Officer (VP),
Tirunavalur,
Ulundurpet Taluk,
Kallakurichi District.

4. Zonal Deputy Block Development Officer,
Zone- I, Tirunavalur Panchayat Union,
Kallakurichi District.

.... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records Na.Ka.No.A4/1268/2024, dated 07.08.2024, on the file of the 1st respondent and quash the same as illegal, without jurisdiction, arbitrary,



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incompetent and unconstitutional and further direct the respondents to hand over whole cheque signing power to the petitioner in view of the order of this Court W.P. No.9453 of 2024 dated 12.08.2024.

For Petitioner : Mr.M.Muruganantham

For R1 to R4 : Mr.S.Arumugam
Government Advocate

ORDER

This Writ Petition has been filed challenging the order passed by the first respondent dated 07.08.2024, thereby withdrawing the cheque signing power of the petitioner as President.

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

3. The petitioner is an elected President of Madapattu Village Panchayat, Kallakurich District. There are totally six panchayat members. In the said panchayat until 2016, one Shantha, wife of Maayavan, was elected as President of Madapattu Village Panchayat. Therefore, her family members were appointed in several posts. In fact, her son is also holding the post of Panchayat Secother and also holding the post of Makkal Nala Paniyalar. Whereas, the petitioner was elected from a different party and as such the vice president is not competent to



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sign the cheque in order to pay the amount to the works which were completed. Therefore, the petitioner submitted several complaints before the first respondent as well as the third respondent alleging that the vice president is not cooperated for any execution of work. Instead of taking action as against the vice president, the first respondent has issued notice to the petitioner in order to invoke the emergency power as contemplated under Section 203 of the Tamil Nadu Panchayats Act. Though the petitioner submitted a detailed reply, without considering the same, the first respondent withdraw the cheque signing power of the petitioner.

4. 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 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



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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 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 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



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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.

6. Therefore, the first respondent cannot pass order under Section 203 of the Tamil Nadu Panchayat Act on the ground that there are misappropriation on the allegation as against the President. A perusal of the order reveals that the petitioner failed to maintain the notice board, minutes book and other registers in a proper manner. That apart, the petitioner only lodged a complaint as against 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.



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Accordingly, it is hereby quashed. The first respondent is directed to conduct enquiry on the complaint lodged by the petitioner as against the Vice President and ward members in the manner known to law.

8. In the result, this writ petition stands allowed.

Consequently, connected miscellaneous petition is closed. No costs.

21.10.2024

Internet : Yes/No

Index: Yes/No

Speaking/Non-speaking order

Neutral Citation : Yes/No

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To

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