



W.P.No.31125 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE C.V. KARTHIKEYAN

W.P.No.31125 of 2024
and WMP.No.33771 of 2024

R. Sundararaji

... Petitioner

Vs

1. The District Collector,
Vellore District Collector Office,
Vellore 632 012.
2. The Inspector of Panchayats/District Collector
Vellore District,
Vellore.
3. The Assistant Director of Panchayats
Vellore District.
4. The Block Development Officer (Village Panchayats)
Bramapuram Panchayat Union
Katpadi Village,
Vellore District.

.... Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorari to call for the entire records relating to the order passed in Na.Ka.No.A5/195/2024 dated 09.10.2024



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on the file of the first respondent and quash the same as far as the petitioner is concerned.

For Petitioner : Mr.L.P.Shanmugasundaram

For Respondents : Mr.V.Nanmaran
Additional Government Pleader
for R1 to R3

Mr.K.H.Ravi Kumar
Government Advocate for R4

ORDER

This writ petition has been filed for issuance of a writ of Certiorari to call for the entire records relating to the order passed in Na.Ka.No.A5/195/2024 dated 09.10.2024 on the file of the first respondent and quash the same as far as the petitioner is concern.

2. In the affidavit filed in support of the writ petition, it has been stated that the petitioner had been elected as Vice President of Brammapuram Village Panchayat and naturally was enjoying cheque signing power along with the President of the Panchayat. It had been



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stated that the 1st respondent had invoked Section 203 of the Tamil Nadu Panchayat Act, 1994 and had withdrawn the cheque signing authority of the petitioner herein.

3. A counter affidavit has been filed on behalf of the 1st respondent alleging various acts of misappropriation by the petitioner herein in his official capacity as Vice President. The only question to be examined by this Court is whether under Section 203 of the Tamil Nadu Panchayat Act, 1994, the 1st respondent/The District Collector/Inspector of Panchayat can withdraw the cheque signing power of the President or the Vice President. The issue is no longer res-integra. If ever the 1st respondent seeks to withdraw the cheque signing power, then necessary procedures under Section 205 of the Act had to be followed. Section 203 of the Act can be resorted to in times of emergency but not on a permanent basis. It cannot be invoked to withdraw the cheque signing authority on a permanent basis. Section 203 of the Tamil Nadu Panchayat Act, 1994 is as follows:-

203. Emergency powers of Collector and Inspector.-



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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 1 [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 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.

4. A reading of the aforesaid mentioned Section shows that it can be used as an emergency power by the Collector and Inspector of Panchayat. It can be used in cases where any work will have to be done and it requires immediate execution of such particular work. But however, Section 205 of the Act is more comprehensive and more particularly Section 206 which specifically relates to removal of Vice



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President and also states that the provision under Section 205 of the Tamil Nadu Panchayat Act, 1994 shall apply even with respect to removal of Vice President. Section 205 contemplates issuance of notice, receiving an explanation, getting the report from the Tahsildar and thereafter conducting enquiry and finally after obtaining the views of the Village Panchayat and then passing orders. But Section 203 cannot be invoked in such cases.

5. The learned Government Advocate placed reliance on the counter and more particularly to paragraph e and f of the grounds which is extracted as follows:-

e). According to Tamil Nadu Panchayat Act, 1994 Section 204(2), The Collector / Inspector of Panchayat is empowered to appoint some person to perform the duties which is not performed by Panchayat President and thus the order passed by the 1st respondent where the cheque signing power alone had been taken away for temporary under the Section 203, 204 and 206 (1) (a) of Tamil Nadu Panchayat Act, 1994 vide in Na.Ka.No.A5/195/2024, dated 09.10.2024.

f) In respect of Grounds (xiv) it is submitted that show cause



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notice detailing all the discrepancy done by President and Vice-President were issued to Brammapuram Panchayat President and Vice President on 16.09.2024 and reply obtained from them on 30.09.2024. Further an order by removing cheque signing power was issued by first respondent on 09.10.2024. Hence its clearly shows that an opportunity was given to the petitioner/Vice President to reply and sufficient time have taken for persuing the reply and the order was passed after careful consideration. Therefore the statement of the petitioner in Grounds (xiv) is incorrect and absolutely false.

6. It had been contended that the first respondent is empowered to appoint any other person to perform the duties which is not performed by the Panchayat President and that the cheque signing powers had been taken away temporarily under Sections 203, 204 & 206 (1) a of the Tamil Nadu Panchayat Act, 1994, but the records reveals that though it could only be temporarily the petitioner had been issued with an order which is practically a permanent withdrawal of the cheque signing power. That can be resorted to only after due enquiry is conducted under Section 205 of the Tamil Nadu Panchayat Act, 1994.



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7. The learned counsel for the petitioner placed reliance on the judgment of the learned single Judge of this Court reported in 2013 (2) CTC 846 in the case of ***Logeswari Vs The District Collector, Trichirapalli and others.*** The issue before the said Court was reduced in paragraph Nos.7 & 8 and the same is extracted as below:-

7. The cheque signing power given to the petitioner under sub-section (3) of Section 188 of the Panchayats Act was taken away by the District Collector by invoking the emergency powers under Section 203 of the Act.

8. The moot question, therefore, is as to whether such a drastic power is available to the District Collector under Section 203 of the Act.

8. After examining the legal position, final conclusion was given in paragraph Nos. 25 & 26 and the same is extracted as below:-

25. The law is, therefore, clear that the District Collector has no power under Section 203 of the Panchayat Act to



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take away the cheque signing power of the President and the Vice President.

26. Therefore, I am of the view that the First respondent was not justified in invoking the jurisdiction under Section 203 of the Act to divest the President of her cheque signing power.

9. The ratio laid down has been followed consistently by the learned single Judges of this Court. I find no reason to differ with the same. In view of the said reasons the writ petition stands allowed and the impugned order is set aside but however liberty and authority is granted to the 1st respondent to proceed in the manner known to law under Section 205 of the Tamil Nadu Panchayat Act, 1994 r/w Section 206 of the said Act after following due process. No costs. Consequently, connected miscellaneous petition is closed.

03.12.2024

dpq
Index: Yes/No
Speaking order / Non speaking order



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C.V. KARTHIKEYAN, J.

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