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W.P. No. 34681 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

CORAM

THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 34681 of 2023

and

W.M.P. No. 34639 of 2023

P.Senthil Kumar

... Petitioner

-VS-

1. The District Collector
Kallakurichi District Collectorate
Kallakurichi District.
2. The Block Development Officer
Tirukkoyilur Panchayat Union Council
Kallakurichi District.
3. The Deputy Block Development Officer
Tirukkoyilur Panchayat Union Council
Kallakurichi District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records of the First Respondent vide Proceedings No. Na.Ka.No. A2/1897/2023 dated 27.10.2023, quash the same and consequently direct the Second Respondent to furnish the documents sought by the Petitioner vide letter dated 07.08.2023 and grant liberty to the Petitioner to submit a detailed reply for the Show Cause Notice vide Proceedings No. Na. Ka. No. A2/1897/2023 dated 26.07.2023 issued under Section 205 of the Tamil Nadu Panchayats Act, 1994 before proceeding with the enquiry.



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For Petitioner : Mr. C.Vigneswaran
For Respondents : Mr. B.Vijay,
Additional Government Pleader
(for R1 & R3)
Mr. S.Prabhakaran (for R2)

ORDER

Heard Mr. C.Vigneswaran, Learned Counsel for the Petitioner, Mr. B.Vijay, Learned Additional Government Pleader appearing for the First and Third Respondents and Mr. S.Prabhakaran, Learned Counsel appearing for the Second Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner was elected as President of Konnakalvadi Village Panchayat in Thirukovilur Panchyat Union of Kallakurichi District and Proceedings for his removal from that office has been taken under Section 205 of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as 'the Act' for short). The First Respondent, who has not accepted the explanation of the Petitioner, has by Proceedings in Na.Ka. No. A2/1897/2023 dated 27.10.2023 in the exercise of powers under Section 205(2) of the Act forwarded the



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relevant records to the Third Respondent to convene a meeting of the Village Panchayat, which is assailed in this Writ Petition.

3. When the matter came up for admission on 15.12.2023, this Court passed the following order:-

2. Having regard to the contentions raised by the Petitioner in the Writ Petition that he had sought for inspection of documents for submitting his reply to the show cause notices and the Second Respondent by Proceedings in Na. Ka. No. Aa5/1519/2023 dated 07.08.2023 asked him to inspect the documents on 10.08.2023 which according to him has not been actually given effect, the Second Respondent shall permit him to examine the documents as mentioned in the said proceedings dated 07.08.2023 at 11.00 a.m. on 18.12.2023 in order to ensure that effective opportunity of hearing to him has been afforded to him so as to avoid legal complications at later stage and file report its outcome on the next hearing.

Post the matter along with W.P. No. 34671 of 2023 on 20.12.2023.



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This Court during the next hearing on 20.12.2023 had passed the following

order:-

In response to the contentions raised by the Petitioner in the Writ Petition relating to non-furnishing of the documents, the Learned Counsel appearing for the Second Respondent has filed a memo dated 20.12.2023, which reads as follows:-

“ It is most respectfully submitted that as per the order of this Hon'ble Court, the second respondent permitted the petitioner to examine the documents. It is further submitted that the petitioner came to office on 18.12.2023 and perused the 11 documents namely 1) Panchayat Agenda, 2)Panchayat Resolution Register, 3) Minute Attendance Register, 4) Cash book (Panchayat Fund), 5)Cash Book (TNEB & TWAD) 6) Cash Book (Schema Fund), 7) Cash Book Panchayat Staff Salary 8) Solid Management Cash Book, 9) Cash Book (15 Central Finance Commission) 10) Panchayat Acceptance Register, 11) Vouchers 1 to 97 from 11 am to 3 pm and also he obtained photo copies of the records he perused.



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Further petitioner requested to peruse three documents namely Stock Register, Professional tax demand register and House Tax demand register. Those documents were not available at the 2nd respondent office on that day. It was taken for audit purpose. Now the 2nd respondent collected those documents from the deputy audit office and now it is readily available with 2nd respondent office and he can peruse the same even today.”

It is represented by Learned Counsel for the Petitioner that the Petitioner would shortly inspect the documents at the office of the Second Respondent and thereafter submit his reply to the show cause notice.

2. In that backdrop, Learned Government Advocate appearing for the First and Third Respondents, on instructions, states that the Konnakalvadi Village Panchayat Council meeting proposed to be held on 29.12.2023 for which notice had been sent would be adjourned to a later date and informed to all parties concerned.



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4. Having regard to the subsequent events narrated supra, it is accepted that the requisite documents sought by the Petitioner to submit his complete explanation for the charges against him have now been made available. In such circumstances, the impugned order dated 27.10.2023 sent by the First Respondent to the Third Respondent and the consequential notice dated 14.12.2023 convening the meeting of the Village Panchayat on 29.12.2023 shall stand effaced. Consequently, it shall be incumbent upon the First Respondent to provide an effective opportunity to the Petitioner to submit his further explanation to the said charges against him in the notice dated 26.07.2023 sent to the Petitioner under Section 205(1) of the Act, and after its receipt, the explanation submitted shall be examined afresh under Section 205(2) of the Act to determine as to whether the explanation is satisfactory or not so as to drop or take further action with respect to the said notice. After carrying out the said exercise, the First Respondent shall decide the further course of action to be followed in accordance with the relevant statutory provisions. It is needless to add here that no view has been expressed by this Court on the merits of the controversy involved in the matter.



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In the result, the Writ Petition is disposed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

Maya

To

1. The District Collector
Kallakurichi District Collectorate
Kallakurichi District.
2. The Block Development Officer
Tirukkoyilur Panchayat Union Council
Kallakurichi District.
3. The Deputy Block Development Officer
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P.D. AUDIKESAVALU, J.

Maya

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