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W.P. No. 36356 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.01.2024

CORAM

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

W.P. No. 36356 of 2023

and

W.M.P. Nos. 36340 and 36341 of 2023

M. Dilip Kumar

... Petitioner

-VS-

1. The District Collector,
Nilgiris District.

2. The President
Selection grade Panchayat
Jagathala
Nilgiris District.

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorari, calling upon the records of the 2nd respondent made in 100 of 2023 dated 12.12.2023 and quash the same.

For Petitioner : Mr. J. Franklin

For Respondents : Mr. S.J. Mohammed Sathik,
Government Advocate



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ORDER

Heard Mr. J.Franklin, Learned Counsel for the Petitioner and Mr. S.J. Mohammed Sathik, Learned Government Advocate appearing for the Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner has been elected as Member representing Ward No.5 of Jagathala (Selection Grade) Panchayat in Nilgiris District and he has been suspended for two ordinary meetings by the Council in furtherance to its resolution no. 100/2023 passed at its meeting held on 12.12.2023, which has been informed by the Second Respondent by Proceedings dated 12.12.2023 and assailed in this Writ Petition.

3. The suspension of the Petitioner is said to have been made in the exercise of powers of the Council under Rule 160(8) of the Tamil Nadu Urban Local Bodies Rules, 2023 (hereinafter referred to as 'the Rules' for short), which reads as follows:-

160. Procedure to be followed in the meeting.—



....

(8) (i) A member shall be guilty of breach of the rules governing the proceeding of the council, if he,—

(a) uses any objectionable or unparliamentarily words or language in his speech and refuses to withdraw such words or refuses to tender apology as required by the Chairperson. Such part of the speech shall not be recorded in the proceedings of the council meeting;

(b) wilfully disturbs the peaceful and orderly conduct of the meeting;

(c) refuses to obey any order of the Chairperson;

(d) fails to resume his seat when the Chairperson rises from his chair or when he is called upon to do so by the Chairperson;
or

(e) commits any other act or conducts himself in any disorderly manner, which may bring disrepute or discredit to the Council.

(ii) Where the Chairperson is of opinion that any member is guilty of any breach of order referred to in clause (i), he may



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order the member to withdraw from the meeting and to be absent for the remainder of the day's proceedings. In case such member is not withdrawing from the meeting, the Chairperson may evict such member from the council hall. The decision of the Chairperson shall be final.

(8) (iii) If any member commits the breach of order referred to in clause (i) for the second or subsequent times, any member or the Chairperson may move a resolution for suspension of the member for any one or two ordinary meetings, and on the resolution being passed by the Council, the member concerned shall be deemed to be suspended as resolved by the Council.

4. The pivotal attack on the impugned order by Learned Counsel for the Petitioner is that in terms of clause (iii) of the said rule, a Member could be suspended for breach of order referred to in clause (i) only for the second or subsequent time, but he has been suspended in the present case at the first instance itself which would vitiate the proceedings.

5. In the Counter-Affidavit filed on 18.01.2024 by the Second Respondent, it has been explained that during an earlier meeting of the Council held on



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31.01.2023, the Petitioner had indulged in the misconduct of using filthy and unparliamentary words especially against women members, and the impugned order related to the second incident that had taken place on 12.12.2023. In view of the aforesaid explanation, which deserves acceptance, it is not possible to interfere with the impugned order *viz-a-viz* the aforesaid contention raised.

In the result, the Writ Petition, which is devoid of merits, is dismissed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

18.01.2024

Index: Yes/No

NCC: Yes/No

Note: Issue order copy by 31.05.2024.

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To

1. The District Collector,
Nilgiris District.
2. The President
Selection grade Panchayat
Jagathala
Nilgiris District.



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P.D. AUDIKESAVALU, J.

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