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W.P.(MD)No.8492 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.06.2024

CORAM

THE HON'BLE Dr.JUSTICE **G.JAYACHANDRAN**

W.P.(MD).No.8492 of 2024

Pandiarajan

... Petitioner

Vs.

1.The State of Tamil Nadu
Rep.by its Chief Secretary,
Fort St.George,
Chennai-9.

2.The Principal Secretary,
Rural Development and Panchayat Raj Department,
Fort St.George,
Chennai-9.

3.The Director,
Rural Development and Panchayat Raj Department,
Panagal Building, Saidapet,
Chennai-15.

4.The District Collector,
Sivagangai District, Sivaganagai

5.Thiru. Mangudi
Member of Legislation,
Tamil Nadu Assembly Karaikudi Constituency,
Sivagangai District.

... Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution



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of India praying to issue a Writ of Mandamus, directing the respondents 1 to 4 to conduct enquiry and take appropriate legal action against the 5th respondent herein by considering the petitioner's representation dated 16.09.2023.

For Petitioner : Mr.A.Praveen Kumar
for Mr.N.Palanisamy

For R1 to R4 : Mr.A.Selvendran
Special Government Pleader

For R5 : Mr.N.C.Ashok Kumar

ORDER

Heard the learned counsel appearing for the petitioner, the learned Special Government Pleader appearing for the State and the learned counsel appearing for the 5th respondent.

2. It is a case where the former Vice President of the Panchayat after holding the charge of President of the said panchayat for nearly two years had started making complaint alleging that his predecessor who is the 5th respondent while holding the Presidentship during the year 2006 to 2016 had misappropriated the panchayat fund under various heads and therefore, necessary action has to be taken against him.

3. According to the petitioner, he had been knocking the door



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to the authority since 2023, but no action been initiated against the 5th respondent. Inspite of several audit objections in para pointed out and the accused has been scrutinized by the audit wing of rural development and village panchayat, the present writ petition is filed for Mandamus. The petitioner had referred to the representation dated 16.09.2023 sent to the respondents including the Hon'ble Governor containing allegations of misappropriation by the 5th respondent, his wife and others is now before this Court for Mandamus directing the authorities to consider the representation.

4. On notice, the 5th respondent against whom specific allegations is made out, has entered appearance and filed counter. For the other respondents, records produced and submissions made by the learned Special Government Pleader.

5. The perusal of the representation indicates several incidents alleging misappropriation totally to the tune of Rs.26 Crores under various heads. In the said representation it has also been mentioned that after the 5th respondent elected to the Tamil Nadu State Assembly, the



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wife of the 5th respondent had been elected as President of the Panchayat.

This Court, to ascertain the locus of the petitioner herein, perused the records and found that this petitioner is none other than the Vice President of the panchayat for quite some time and he has holding the incharge of President between 09.04.2020 and 17.08.2021.

6. When the election of the President was under challenge before the Court, the learned Special Government Pleader has submitted that while this petitioner was holding charge of Presidentship had committed misappropriation and is the subject matter of enquiry by Department of Vigilance and Anti Corruption which was initiated after direction by the High Court in a Writ Petition. Further, also submitted that the incident of misappropriation mentioned in the representation are not true, certain audit objections and paras were pointed out during the course of auditing the account of the said panchayat and same has been rectified.

7. According to the respondents 1 to 4, the accounts of the panchayat already been scanned by the audit department.



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Misappropriation is done only by this petitioner holding the charge of President. The present representation was given to torpedo the on going enquiry by DVAC against this petitioner. The counter affidavit filed on behalf of the 5th respondent also disclosed that in a W.A.MD.No.2246 of 2021 vide order dated 28.07.2022. This Court had cleared the deck to proceed against this petitioner for irregularity by initiating prosecution and it is also stated that in W.P.MD.No.20484 of 2023 Madurai bench of Madras High Court vide order dated 23.08.2023 had directed the 4th respondent to conduct preliminary enquiry regarding allegations of misappropriation during the year 2020-21, 2021-22, period the petitioner was holding incharge of panchayat President and based on the preliminary enquiry, DVAC has been initiated in Crime No.241 of 2023 under Sections 109, 462 and 477A IPC and the investigation is under way.

8. Thus, from the records it is clear that there are allegations and counter allegations between the petitioner and the 5th respondent. As on date material been collected during preliminary enquiry and case has been registered against this petitioner for misappropriation. As far as the



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5th respondent is concerned against whom now representation is given to take action, the audit conducted so far not found any suspicious dealing which could attracted enquiry. The report of the Assistant Director of Audit produced by the 4th respondent indicates that for the period 2006 to 2016 certain defects and objections been pointed out and subsequently most of them were rectified. Also this Court finds from the typed set of papers that one of the communications from the Assistant Director, Audit discloses misappropriation of fund by this petitioner during his period as President and same is now the subject matter of vigilance enquiry.

9. In the above circumstances of the case, this Court holds that the representation of the petitioner though given belatedly certain incident has already been brought under the scanner of audit and rectified. If there is anything else to be rectified and falls within the scope of investigating for misappropriation, same shall be done after completion of the audit, if it is not done so far. Otherwise there is no purpose in revisiting the representation of the petitioner which has been generated in the year 2023 much after the 5th respondent demitted the office of panchayat and after initiating proceedings against this petitioner. Hence, this Writ Petition is



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dismissed. No costs.

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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation : Yes/No

To

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2.The Principal Secretary,
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4.The District Collector,
Sivagangai District, Sivaganagai

5.The Public Prosecutor,
High Court of Madras,
Chennai

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