



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P(MD)Nos.4743 & 4799 of 2023
WMP(MD) Nos.4406, 4407, 4476, 4477 of 2023
and
Contempt Petition(MD) No.1724 of 2022 in
WP(MD) No.20632 of 2021

W.P(MD)Nos.4743 of 2023:-

Eriyur Village Panchayat,
Rep by its President,
R.Thiruselvam

Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Rural Development and
Panchayat Raj,
Fort St. George,
Chennai - 600 009.

2.The District Collector /
Inspector of Panchayats,
Sivagangai District.

3.S.Mampatti Panchayat,
Rep. by its President,



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

P.Thamaraiselvam,
S.Mampatti,
Sivagangai District.

Respondents

W.P(MD)No.4799 of 2023:-

D.Mampatti Village Panchayat,
Rep by its President,
K.R.Chezhian

Petitioner

Vs

1.The State of Tamil Nadu,
Rep. by its Principal Secretary,
Department of Rural Development and
Panchayat Raj,
Fort St. George,
Chennai - 600 009.

2.The District Collector /
Inspector of Panchayats,
Sivagangai District.

3.S.Mampatti Panchayat,
Rep. by its President,
P.Thamaraiselvam,
S.Mampatti,
Sivagangai District.

Respondents

Contempt P(MD) No.1724 of 2022:-

S.Mampatti Panchayat,
Represented by its President,
Thamaraiselvam,



W.P(MD)No.4799 & 4743 of 2023

S.Mampatti Panchayat,
Singampunari Panchayat Union,
Thirupathur Taluk,
Sivagangai District.

Petitioner

Vs

State through
Mr.Madhusudan Reddy,
The District Collector,
Sivagangai District,
Sivagangai.

Respondent/Contemnor

PRAYER in W.P(MD)No.4743 of 2023:- Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.A2/2815/2021, dated 16.02.2023 on the file of the respondent No.2 and quash the same as illegal and consequently direct the respondent No.1 to permit the petitioner to collect the professional tax from the staff and teachers of Eriyur Government Higher Secondary School within the time period stipulated by this Court.

PRAYER in W.P(MD)No.4799 of 2023:- Writ Petitions filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari to call for the records pertaining to the impugned order in Na.Ka.A2/2815/2021 dated 16.02.2023 on the



W.P(MD)No.4799 & 4743 of 2023

file of the Respondent no.2 and quash the same as illegal.

WEB COPY

PRAYER in Contempt P(MD) No.1724 of 2022:-: Contempt Petition filed under Section 10 of the Contempt of Courts Act, praying this Court to punish the contemnors/respondents under the provisions of Contempt of Courts Act 1971 for willful and deliberate disobedience of the order passed by this Court in WP(MD) No. 20632 of 2021, dated 18.11.2021.

For Petitioner	: Mr.M.Mahaboob Fazil
For R1 & R2	: Mr.A.Baskaran Additional Government Pleader
For R3	: Mr.M.Subash Babu Senior Counsel for Mr.C.Sucikumar

(In both WPs)

For Petitioner	: Mr.M.Subash Babu
For Respondents	: Mr.A.Baskaran Additional Government Pleader

(In Contempt Petition)

COMMON ORDER

These writ petitions have been filed by the Presidents of Eriyur and D.Mampatti Village Panchayats as against the order



W.P(MD)No.4799 & 4743 of 2023

passed by the District Collector, Sivagangai, dated 16.02.2023 transferring the right of collection of professional tax (from the staff and teachers of Eriyur Government Higher Secondary School) to S.Mampatti Village Panchayat.

2.Contempt Petition(MD)No.1724 of 2022 has been filed that the order of this Court in WP(MD) No.20632 of 2021, dated 18.11.2021, directing the District Collector, Sivagangai District to dispose of the representation of the S.Mampatti Village Panchayat President has not been considered.

3.Since the dispute in these writ petitions and the contempt petition is with regard to the right of collection of professional tax from the staff and teachers of Eriyur Government Higher Secondary School, all these matters are taken up together and disposed of by this common order.



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

4.The District Collector has passed this impugned order based on the representation of the President of S.Mampatti Village, dated 20.08.2022 and as per the order of this Court in WP(MD) No. 20632 of 2021 dated 18.11.2021. The operative portion of the above order is extracted as under:-

“a) third respondent shall dispose of the aforementioned representation of writ petitioner dated 09.10.2021 on its own merits and in accordance with law, uninfluenced by any views that have been expressed by this Court in this order;

a) third respondent shall issue notice to D.Mampatti Panchayat, give ample/adequate opportunity to D.Mampatti Panchayat to put forth their started position take into account/consider the same and thereafter dispose of the representation. To be noted, this is the safeguard while that



W.P(MD)No.4799 & 4743 of 2023

has been put in place and the same has been alluded to supra elsewhere in this order.

- b) The above exercise shall be completed by the third respondent as expeditiously as the official business of the third respondent would permit and in any event within three months from today I.e on or before 18.02.2022.
- c) disposal of the aforementioned representation by third respondent i.e proceedings disposing of representation shall be communicated to the writ petitioner panchayt as well as D.Mampatti Panchayat under due acknowledgments within seven working days from the date of disposal.”

This Government School is situated in S.Nos.74,75,76, 78 and 95 of S.Mampatti Village, as per the revenue records. The President of S.Mampatti Village has submitted a representation claiming right of collecting professional tax from the staff of Eriyur Government Higher Secondary School that as per the revenue records, the School



W.P(MD)No.4799 & 4743 of 2023

is in the jurisdiction of S.Mampatti Panchayat and therefore, S.Mampatti Panchayat alone is having right of collecting tax. This Court by order dated 18.11.2021 has directed the District Collector to dispose of the representation on its merits and in accordance with law after providing opportunity to the Presidents of D.Mampatti and S.Mampatti Village as stated above. The District Collector after conducting an enquiry as directed by this Court has passed this impugned order, transferring the right of collection of professional tax to S.Mampatti Village. The petitioners have challenged this order that they have not been provided an opportunity of hearing by the District Collector, before passing this impugned order.

5.On the side of the official respondents, the learned Additional Government Pleader by relying upon the notices dated 11.02.2022, 26.07.2022 and 03.02.2023 submits that sufficient opportunities have been provided by the District Collector before passing the order. Therefore, there is no need to interfere with the



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

impugned order. He further submits that the petitioners have not invoked the appeal remedy, which is available to them before the Secretary under Section 219 of the Tamil Nadu Panchayats Act, 1994.

6.This Court considered the rival submissions made and also perused the materials placed on record.

7.The petitioners have filed these writ petitions on the ground of violation of principles of natural justice that sufficient opportunity was not provided to the petitioners by the District Collector before passing the impugned order. It is the stand of the respondents that sufficient opportunity was provided to the petitioners by way of notices dated 11.02.2022, 26.07.2022 and 03.02.2023. More over, the petitioners are having a remedy by way of revision before the Secretary under Section 219 of the Tamil Nadu Panchayats Act,1994. However, without invoking the remedy



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

available, the petitioners have filed these writ petitions on the ground of violation of principles of natural justice. Therefore, this Court is not inclined to entertain this writ petition on that ground.

8. These writ petitions are disposed of with a liberty to the petitioners to file revision before the Secretary, within a period of four weeks from the date of receipt of a copy of this order. On such filing of revision, the Secretary to Government shall entertain the revision without insisting the limitation, if any required as per statute and the Secretary shall endeavour to conclude the proceedings after issuing notice to the claimants of D.Mampatti and S.Mampatti and Ariyalur Village Panchayats as expeditiously as possible preferably within a period of four months from the date of receipt revision petition from the petitioners. Since it is reported that Eriyur Village Panchayat was allowed to collect the professional tax from the staff and teachers of Eriyur Government School for the past 42 years, the parties shall maintain *status quo* pending disposal of the



W.P(MD)No.4799 & 4743 of 2023

WEB COPY

revision, if any filed. No costs. Consequently, connected Miscellaneous petitions are closed. In view of the order passed in these writ petitions, Contempt P(MD)No.1724 of 2022 is closed.

12.03.2024

NCC:Yes/No
Index:Yes/No
Internet:Yes
vrn



W.P(MD)No.4799 & 4743 of 2023

To
WEB COPY

- 1.The Principal Secretary,
Department of Rural Development and
Panchayat Raj,
Fort St. George,
Chennai - 600 009.
- 2.The District Collector /
Inspector of Panchayats,
Sivagangai District.
- 3.S.Mampatti Panchayat,
Rep. by its President,
P.Thamaraiselvam,
S.Mampatti,
Sivagangai District.
- 4.Mr.Madhusudan Reddy,
The District Collector,
Sivagangai District,
Sivagangai.



WEB COPY



W.P(MD)No.4799 & 4743 of 2023

B.PUGALENDHI, J.

vrn

Common Order made in
W.P(MD)Nos.4743 & 4799 of 2023
WMP(MD) Nos.4406, 4407, 4476, 4477 of 2023
and
Contempt Petition(MD) No.1724 of 2022 in
WP(MD) No.20632 of 2021

12.03.2024