



W.P.(MD)No.8015 of 2021

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.12.2024

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.8015 of 2021
and
W.M.P.(MD)No.6113 of 2021

K.Thanasingh

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep. By its Secretary,
Rural Development and Panchayat Raj
Department,
Chennai – 600 009.
- 2.The District Collector – cum – Inspector of Panchayats,
Thoothukudi District,
Thoothukudi.
- 3.The Assistant Director (Panchayats),
Collectorate Buildings,
Thoothukudi District.
- 4.The Assistant Director (Audits),
Collectorate Buildings,
Thoothukudi District.
- 5.The Block Development Officer,
(Village Panchayats),
Alwarthirunagari Panchayat Union,
Alwarthirunagari,
Thoothukudi District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India
for issuance of a Writ of Certiorari, calling for the records relating to the



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impugned order passed by the second respondent in A6/49/2012, dated 02.11.2020 and quash the same as illegal.

For Petitioner : Mr.M.P.Senthil
For Respondents : Mr.J.Amjad Khan
Government Advocate

ORDER

This Writ Petition is filed, to quash the impugned order passed by the second respondent in A6/49/2012, dated 02.11.2020.

2.Heard the learned counsels on either side and carefully perused the materials available on record.

3.The impugned proceedings of the second respondent for carrying out the execution of surcharge proceedings initiated as against the petitioner, was passed on 02.11.2020. After conclusion of surcharge proceedings as against the petitioner, the surcharge certificate was issued by the third respondent on 23.09.2020, which was served on the petitioner on 29.09.2020.

4.Rule 5 of the Tamil Nadu Panchayats (Surcharge, Disallowance and Charge) Rules, 2000, is extracted as follows:-

*“5. Appeal against the surcharge, disallowance or charge
—(1) Any person aggrieved by the disallowance, surcharge or charge made, may, within thirty days from the date of the*



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receipt of service of the decision of the Auditor, appeal to the Inspector, or any Officer authorized by the Government in this behalf to set aside such disallowance, surcharge or charge and the Inspector or such officer, after taking such evidence as is necessary, may confirm, modify or remit such disallowance, surcharge or charge:

Provided that the Inspector or any officer authorized by the Government, may admit an appeal after the expiry of the time specified in this sub-rule, but within sixty days if the Appellant satisfies the Inspector or such officer that he has sufficient cause for not preferring the appeal within the specified time:

Provided further that during the pendency of the appeal made under this Rule, the certificate of disallowance, surcharge or charge, as the case may be, shall not be enforced.

(2) Against the order of the Inspector or Officer authorized by Government in this behalf under sub-rule (1), a second appeal shall lie to the Government within thirty days from the date of receipt of such order. The Government may take into account all the facts presented by the Appellant and facts of the case and pass such order as they deem fit and proper. Against the order of the Government, an appeal shall lie to the High Court within thirty days from the date of receipt of such order.

(3) Where an appeal is made to the High Court under sub-rule (2), the Auditor shall be the sole respondent thereto and the applicant shall not be entitled to make either the Inspector or any officer authorized by the Government or any other person or Government as a party to the proceedings."



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5.The same provides that an Appeal against the surcharge proceedings shall be admitted even after the expiry of the specified 30 days time but within 60 days. In the instant case, the impugned order was passed on 02.11.2020. However, the petitioner within a period of 60 days i.e., on 10.11.2020, has filed an Appeal with condone delay petition and stay petition. In view of the proviso to Rule 5 of the aforesaid Rules, this Court setting aside the impugned order and direct the second respondent to await for the outcome of the appeal, which is pending before the second respondent. However, the second respondent is directed to dispose of the appeal dated 10.11.2020, after giving opportunity of hearing including personal hearing to the petitioner, as expeditiously as possible within a period of 60 days from the date of receipt of copy of this order.

6.This Writ Petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

02.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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L.VICTORIA GOWRI, J.

Mrn

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