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W.A.(MD)No.1023 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

and

THE HONOURABLE MR.JUSTICE G.ARUL MURUGAN

W.A.(MD)No.1023 of 2024

and

C.M.P.(MD)No.7427 of 2024

1.The State represented by,

The Secretary to Government,

Rural Development and Local Administration Department,

Fort St. George,

Chennai – 600 009.

2.The District Collector cum

Inspector of Panchayat,

Collectorate Campus,

Madurai, Madurai District.

: Appellants

Vs.

A.G.Sharmilaji

: Respondent

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to allow the Writ Appeal by setting aside the order passed in W.P.(MD)No.19672 of 2023 dated 21.03.2024.



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For Appellants : Mr.Veera Kathiravan,
Additional Advocate General,
Assisted by Mr.A.Kannan
Additional Government Pleader

For Respondent : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

JUDGMENT

[Judgment of the Court was delivered by **R.SURESH KUMAR, J.**]

This Writ Appeal has been directed against the order passed in W.P.(MD)No.19672 of 2023 dated 21.03.2024.

2.The respondent was the elected President of Kottaimedu Village Panchayat, against whom proceedings were initiated under Section 205 of the Tamil Nadu Panchayats Act, 1994, which ultimately ended in an order passed by the second appellant ie., District Collector dated 24.06.2022, whereby the District Collector has removed the respondent from the Presidencyship by exercising his power as the Inspector of Panchayats under the Act.

3.As against the said order, though the respondent approached the Writ Court, that order passed by the District Collector was directed to be appealed before the Government.



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4.Pursuant to the same, appeal had been preferred by the respondent on 13.09.2022, to the first appellant. The first appellant State Government having considered the said appeal rejected the same by confirming the order passed by the second appellant District Collector and thereby the removal of the Presidencyship of the respondent has been confirmed by order dated 26.06.2023.

5.The said order of the Government has even been questioned by the respondent in a writ petition in W.P.(MD)No. 19672 of 2023. The said writ petition was allowed by the Writ Court by order dated 21.03.2024, which is impugned herein.

6.Heard Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr.A.Kannan, learned Additional Government Pleader, appearing for the appellants and Mr.M.Ajmal Khan, learned Senior Counsel for M/s.Ajmal Associates, appearing for the respondent.

7.Learned Additional Advocate General would contend that, once the appeal has been preferred before the Government, the Government having considered the merits of the appeal by giving an opportunity of personal hearing to the respondent and



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after having gone through the charges and the explanation given by the respondent as well as the relevant documents, ledgers and the registers and having perused the same directed the Assistant Director of Panchayats to file an inspection report which he has filed. All these documents were considered and having considered all these documents, the first appellant came to the conclusion that the order passed by the District Collector which was impugned before the writ Court was intact and the learned Writ Court ought not to have interfered with the said order.

8. Learned Additional Advocate General would submit that, the learned Single Judge having set aside the order passed by the first appellant, had directed the appellants herein to restore the position of the respondent as Panchayat President and therefore, it requires interference at the hands of the Division Bench, he contended.

9. On the contrary, learned Senior Counsel appearing for the respondent would submit that, the first appellant being the quasi judicial authority, the procedures that was conducted before the first appellant as a statutory appeal should have been considered and while disposing of the same, he, in respect of each of the charge when explanation is given, the same should have



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been taken into account and findings must have been given with respect to each of the charge and explanations given, but no such exercise has been carried out by the first appellant and only a summary report has been given by the appellate authority. Such a procedure adopted by the appellate authority cannot be construed as a proper procedure within the meaning of quasi judicial authority. Therefore, for that reason alone, the learned Judge has allowed the said writ petition through the order impugned herein.

10. Learned Senior Counsel would further contend that, insofar as the respondent is concerned, already five months have gone without passing any order restoring the position of the Presidencyship of the respondent and the remaining tenure of the respondent would only be up to December, 2024 ie., six months period. Therefore, at this juncture, if any interference is called for and if the order passed by the learned Judge is interfered with by this Division Bench, that will cause great prejudice to the respondent who has been elected democratically by the village people. Therefore, the learned Senior Counsel seeks indulgence of this Court to dismiss the appeal.

11. We have considered the said rival submissions made by the learned Additional Advocate General appearing for the



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appellants as well as the learned Senior Counsel appearing for the respondent.

12.We have gone through the order passed by the Government in G.O.(Ms).No.195, Rural Development and Panchayat Raj Department dated 26.06.2023, where though the learned Judge has taken a view that upto 9th paragraph, only the past history has been addressed by the appellate authority and in the 11th paragraph conclusion has been arrived at, there is no consideration which has been shown by the appellate authority and that is the main reason which triggered the learned Judge to allow the said writ petition.

13.In this context, in paragraph No.10 the appellate authority has recorded that the respondent has been given an opportunity of personal hearing, who appeared before the appellate authority on 07.11.2022 and has given explanation to each of the charge that was taken on record and also the bills, vouchers, ledgers pertaining to the years 2016 to 2020 has been called for and all those documents were verified by the Assistant Director of Panchayat at Madurai and after having perused the said documents, the Assistant Director has also given a report and those documents and the report of the Assistant Director were



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considered and ultimately, the appellate authority has come to the conclusion that the order passed by the second respondent District Collector was to be approved.

14.Though to this extent it has been stated in paragraph No.10 of the order passed by the appellate authority, if we consider the submission that is made by the learned Senior Counsel for the respondent as to how procedurally an appeal has to be disposed by a quasi judicial authority, inasmuch as he is disposing of an appeal of the President who is facing charges which ended in removal of his Presidencyship, even though it has been stated in paragraph No.10 of the affidavit that the documents have been considered including the report of the Assistant Director, in respect of each of the charges, what was the charge and what was the explanation given by the respondent and based on the explanation whether it is to be accepted or to be rejected, what was the supporting document in favour of the charges available on record and what are all the materials that were against the respondent are all since were available according to the appellate authority in the records, those documents having been perused, the views of the appellate authority to come to the conclusion in respect of each of charge have not been recorded. The appellate authority should have recorded the same in the order itself. Such an exercise is normally



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expected from any quasi judicial authority which is absent in the present order. Therefore, to that extent the argument advanced by the learned Senior Counsel has to be accepted.

15.If that is the reason for the writ Court to allow the said writ petition, while setting aside the order passed by the appellate authority, instead of leaving the matter at rest, by giving a direction to the appellants to restore the Presidencyship of the respondent, the learned Judge ought to have remitted the matter once again back to the appellate authority to reconsider and to pass an order giving reasons in respect of each of the charge explicitly in the order to be passed.

16.Instead of making such an exercise, since the learned Judge has allowed the writ petition with a direction to restore the position of the respondent as a Panchayat President, we do not agree with the said conclusion reached by the learned Judge. Therefore, it requires reconsideration. Therefore, we have no hesitation to say that such a conclusion arrived at by the learned Single Judge is liable to be interfered with.



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17.Resultantly, the following order is passed:

“that the order passed by the learned Judge which is impugned herein is modified to the following effect:

“that the order of the appellate authority in G.O.(Ms).No.195, Rural Development and Panchayat Raj Department dated 26.06.2023 is set aside and the matter is therefore, remitted back to the first appellant who is the appellate authority, for the purpose of reconsidering the matter; where no further personal hearing need to be given to the respondent. Instead, based on the explanation that has already been given by the respondent and the records that were made available before the appellate authority, reasoning can be given in respect of each of the charge as to how the charges have been proved or the conclusion reached by the Inspector of Panchayats has to be accepted and in respect of each charge such a reasoning is to be given by the appellate authority and thereafter, ultimate conclusion can be arrived at by the appellate authority and final orders can be passed.

The aforesaid exercise shall be undertaken by the appellate authority within a period of 30 days from the date of receipt of a



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copy of this order. It is made clear that no further extension of time will be given to the first appellant to comply with the aforesaid order. Till such time, the order passed by the learned Single Judge giving a direction to the appellants to restore the position of the respondent as the Panchayat President shall not be given effect to. It is made clear that depending upon the outcome of the order to be passed by the first appellant, the further course of action will follow."

18.Accordingly, this Writ Appeal stands disposed of. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

[R.S.K.,J.] & [G.A.M.,J.]
20.06.2024

Neutral Citation : Yes/No

Index : Yes/No

Internet : Yes/No

MR

Note: Issue a copy of this order by 24.06.2024.



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To

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Chennai – 600 009.

2.The District Collector cum
Inspector of Panchayat,
Collectorate Campus,
Madurai, Madurai District.



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R.SURESH KUMAR, J.

and

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MR

ORDER MADE IN

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