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W.P(MD)No.14796 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	:	31.07.2024
Pronounced on	:	30.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

W.P(MD)No.14796 of 2024

S.R.Raja

... Petitioner

Vs.

- 1.The Director,
Town Panchayat
7 & 8 Floor,
Town Development Office Campus
Chennai-600028.
- 2.The Assistant Director,
Town Panchayat Madurai Region,
Collectorate Campus,
Madurai.
- 3.The District Collector,
Virudhunagar District,
Virudhunagar.
- 4.The Director,
Vigilance & Anti-Corruption Department,
No.293, M.K.N.Salai,
Alandhur,
Chennai-600016.
- 5.The Superintendent of Police,
Vigilance and Anti-Corruption Department,
Collectorate Campus,
Virudhunagar.



W.P(MD)No.14796 of 2024

6.The District Vigilance Committee,
Collectorate Campus,
Ramanathapuram.

7.Manikandan
Executive Officer,
Mumsapuram Town Panchayat,
Srivilliputhur Taluk,
Virudhunagar District.

8.Sathyamoorthy,
Electrician,
Mumsapuram Town Panchayat,
Srivilliputhur Taluk,
Virudhunagar District.

9.Sivasubramanian
Health Department Supervisor,
Mumsapuram town Panhcyat,
Srivilliputhur Taluk,
Virudhunagar District.

10.Gopi
Bill Collector
Mumsapuram Town Panchayat,
Srivilliputhur Taluk,
Virudhunagar District.

11.Dilipan
Head Clerk
Mumsapuram Town Panchayat,
Srivilliputhur Taluk,
Virudhunagar District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a writ of mandamus or any other order of direction in the nature of the writ of mandamus directing the 5th



W.P(MD)No.14796 of 2024

respondent to take appropriate action against respondent Nos.7 to 11, the officials of the Mumsapuram Town Panchayat, based on my representation, dated 20.05.2024.

For Petitioner :Mr.C.R.Ponnuthai
For Respondents :Mr.S.Ravi,
Additional Public Prosecutor
(For R1 to R6)

ORDER

This Writ petition has been filed by the petitioner to direct the 5th respondent to take appropriate action against respondent Nos.7 to 11, the officials of the Mumsapuram Town Panchayat, based on my representation, dated 20.05.2024.

2.The writ petitioner is the counsellor of ward No.2 of Mumsapuram Town Panchayat. He made an allegation against the executive officer of the said pancayat and other officials that they have misappropriated the huge fund of the panchayat. Therefore, he sent the complaint to the 4th respondent and other respondents to take necessary action. There was no action on his complaint dated 20.05.2024. Therefore, he filed the writ petition seeking writ of mandamus to issue a



W.P(MD)No.14796 of 2024

direction to the 5th respondent, namely, Vigilance Department to take appropriate action against the erring officials.

3. During the course of the hearing the Learned Additional Public Prosecutor submitted that the 3rd respondent vigilance department initiated factual verification and the same would be completed and he seeks time to make further submission. Therefore, the case was adjourned to 30.07.2024.

4. During the course of hearing on 30.07.2024, the Learned Additional Public Prosecutor submitted the report dated 10.06.2024 which read as follows :



W.P(MD)No.14796 of 2024

Proforma

Factual Verification Report on the petition received from Tr.S.R.Raja, S/o.Rajasekaran, Warya Petrol Bunk, NH-208, Madurai Main Road, Indira Nagar, Srivilliputhur-626125, Virudhunagar District.

Petition No.6203/2024/TP/VN, Dated 10.06.2024

1.	Name of the factual verification officer and Designation	Tr.C.Sayan Thirai, Inspector of Police, Vigilance and Anti-Corruption, Virudhunagar.
2.	Date, time and place of verification with the petitioner.	1) On 03.05.2024 between 15.00 hrs and 15.10 hrs through Mobile Phone. 2) On 10.06.2024 between 10.45 hrs and 10.50 hrs through Mobile Phone.
3.	Date of the petition and name of the petitioner as in the petition.	18.05.2024 Tr.S.R.Raja
4.	Name and address of the petitioner.	Tr.S.R.Raja age 46 /2024 S/o.Rajasekaran, Proprietor, Warya Petrol Bunk, NH-208, Madurai Main Road, Indira Nagar, Srivilliputhur-626125, Virudhunagar District.
5.	Mobile Number of the petitioner.	9603348899
6.	<u>Details of the factual verification:-</u> On 03.05.2024 between 15.00 hrs and 15.10 hrs through Mobile Phone to contact the petitioner in his Mobile Number 9603348899 from my Mobile Number and enquired about complaint. The name and address of the petitioner was verified and found to be true. The petitioner admitted that he had sent the petition. He is professionally running a Petrol Bunk. Now he is the Counselor of 2nd Ward in Mannasuram Town Panchayat. I advised him to bring the relevant documents appear for enquiry at O/o the V&AC, VNR. But he did not appear for enquiry. Again on 10.06.2024 between 10.45 hrs and 10.50 hrs to contact the petitioner in his Mobile Number 9603348899 from my Mobile Number and enquired about the complaint, he said that, the allegations mentioned in the petition are true and he requested to take appropriate action against them.	

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W.P(MD)No.14796 of 2024

The following allegations were mentioned in the petition.

1) Tr.M.Manikandan, Executive Officer, Tr.Gopi, Bill Collector and Tr.Dhiliban, Junior Assistant of Mamsapuram Town Panchayat, Virudhunagar District, they collected property tax from the owners of 214 newly constructed buildings and not remitted the money with the Mamsapuram Panchayat account and distributed themselves and caused loss to the Government Rs.1,07,00,000/- (Rupees One Crore and Seven Lakhs only).

2) A tender was issued to Mother Teresa and Vasantham Women's Aid Group for the work of Segregation of biodegradable and non-biodegradable waste and without execution of the above said work an amount of Rs.1,86,400/- and Rs.1,86,000/- given to them through cheques vide Expenditure Slip No.379 and 380 respectively on 01.08.2023 and after that they had paid the said amount to Tr.M.Manikandan, Executive Officer and Tr.Sivasubramanian, Sanitary Supervisor of Mamsapuram Town Panchayat.

3) Sintex tanks were installed in 18 wards of the Mamsapuram Panchayat for drinking water purpose. No one was appointed as the Sintex tank operator, instead, the public on the street do the said work. But, Tr.M.Manikandan, Executive Officer, of Mamsapuram Town Panchayat, Virudhunagar District had claimed in the name of Sintex tank operator accordingly he had swindled an amount Rs.75,000/- per month and caused loss to government.

4) In Mamsapuram panchayat, an amount of Rs.9450/- per month has been spent towards the cleaning of drainages by JCB machines and the said amount was received through the Expenditure Slip, accordingly swindled the amount every month and caused loss to government.

5) In Mamsapuram panchayat, an amount of Rs.9923/- per month has been spent towards the purchase of masks for sanitary workers and received the said amount through expenditure slip, accordingly swindled the amount every month and caused loss to government.

6) Tr.Sathiyamoorthy, who is doing electric motor repairs work in Mamsapuram panchayat is colluded with Tmt.Kanimozhi, the owner of Therathi



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W.P(MD)No.14796 of 2024

Electricals, and he had placed receipts for goods without paying GST tax that were not purchased by them, accordingly Executive Officer Tr.Manikandan and Tr.Sathiyamoorthy had swindled huge amount and caused loss to government.

Discreet Enquiry revealed the following facts:-

1) Mamsapuram Town Panchayat is located in Virudhunagar District. The main functions of Town Panchayat are providing Sanitation, Street Light maintenance and drinking water supply to the residents of the Town Panchayat Area, road maintenance, providing plan approval for the construction of buildings and implementation of Government Schemes etc. This Town Panchayat has an elected Panchayat President and Councils of 18 members. The petitioner Tr.S.R.Raja is the Counselor of 2nd ward in Mamsapuram Town Panchayat. Now Tmt.T.Sujitha Mary is the sitting President for this Town Panchayat. The present council is holding office from 02.03.2022 and they are empowered till 01.03.2027.

2) Since this a Town Panchayat, a Government Officer in the rank of Executive Officer is appointed for running the day to day affairs of the Town Panchayat and he is the Executive Authority of the Town Panchayat exclusively responsible for the administration of the Town Panchayat and also empowered to make payments below Rs.10,000/- for all Panchayat activities.

3) In Mamsapuram Town Panchayat, Tr.M.Manikandan is working as Executive Officer from 09.12.2022 to till date, Tr.R.Gobi is working as Bill Collector from 10.05.2022 to till date, Tr.V.Dhiliban is working as Junior Assistant from 28.11.2022 to till date, Tr.V.Sivasubramanian is working as Sanitary Supervisor from 01.04.2022 to till date and Tr.K.Sathiyamoorthy is working as Electrician from 11.11.2022 to till date.

4) It is ascertained that, except the first allegation and the remaining said allegations raised by the petitioner are based on the objections in the Audit Report dated 20.05.2024 of the Mamsapuram Town Panchayat for the period 01.04.2022 to 31.03.2023. Generally, the Audit Objections will be cleared by conducting the Joint Sitting of the Assistant Director, Local Fund Audit, Virudhunagar and the Assistant Director, Town Panchayat, Virudhunagar. Further it is ascertained that the Joint Sitting was yet to be conducted for the above said Audit Report period.

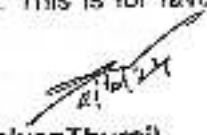


W.P(MD)No.14796 of 2024

WEB COPY

5) It is submitted that, the petitioner had neither appeared before the enquiry, nor submitted any documents related to the allegations mentioned in the petition.

In the said circumstances, it is requested that the petition may be forwarded to the Head of the department, if approved. This is for favour of kind perusal.


(C.Salvan Thurai)
Inspector of Police,
Vigilance and Anti-Corruption,
Virudhunagar.

5. Apart from the material adduced by the writ petitioner relating to the various illegalities in discharge of the function of the panchayat and the misappropriation of the fund of the panchayat. The factual verification report also disclosed prima facie case to conduct the preliminary enquiry as per the procedure stated in the vigilance manual.

6. Accordingly, this writ petition is disposed of with the following directions:

6.1. The 1st respondent is hereby directed to transmit the local fund audit report and the other audit report to the office of the 4th respondent



W.P(MD)No.14796 of 2024

along with permission to conduct the preliminary enquiry within four weeks from the date of receipt of the copy of the order.

6.2. Upon receipt of the same, the 5th respondent shall complete the preliminary enquiry within 2 months thereafter.

6.3. If the 5th respondent finds no material to proceed further into the allegation made in the petitioner complaint during the course of the preliminary enquiry, it is open to the 5th respondent to file the closure report upon serving the same to the petitioner.

30.08.2024

NCC :Yes/No
Index :Yes/No
Internet :Yes/No
sbn



W.P(MD)No.14796 of 2024

To

- 1.The Director,
Town Panchayat
7 & 8 Floor,
Town Development Office Campus
Chennai-600028.
- 2.The Assistant Director,
Town Panchayat Madurai Region,
Collectorate Campus,
Madurai.
- 3.The District Collector,
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- 4.The Director,
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- 6.The District Vigilance Committee,
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W.P(MD)No.14796 of 2024

K.K.RAMAKRISHNAN.J.,

sbn

W.P(MD)No.14796 of 2024

30.08.2024