



W.P(MD)Nos.16932 & 15386 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.08.2024

Pronounced on : 15.10.2024

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.16932 & 15386 of 2024

and

W.M.P(MD)Nos.14622, 13483 & 13484 of 2024

W.P(MD)No.16932 of 2024:

G.Senthil Kumar

.... Petitioner

Vs.

- 1.The State represented by
The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat,
Chennai.
- 2.The Director of Town Panchayat,
7th and 8th Floor,
Urban Administration Building,
75, Santhome High Road,
R.A.Puram,
Chennai – 600 028.
- 3.The District Collector,
Thanjavur District,
Thanjavur.



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4.The Assistant Director of Town Panchayat,
Office of the District Collector,
Thanjavur District.

5.The Executive Officer,
Peravoorani Town Panchayat,
Thanjavur District.

6.The Director,
Vigilance and Anti Corruption,
No.293, MKN Road,
Alandur,
Chennai – 600 016.

7.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tamil University,
Thanjavur.

8.The Chairman,
Peravurani Town Panchayat,
Peravurani,
Thanjavur District.

9.Shanthi Sekar

10.N.Selvaraj

11.N.S.Sekar

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the official respondents to take action against the 8th / 9th Respondent for her removal invoking Section 52 of the Tamil Nadu Urban Local Body Act and direct the official respondents to initiate criminal prosecution for the large scale defalcation of funds of Peravoorani Town Panchayat in the light of Report dated 02.02.2024 submitted by the second respondent in his proceeding in Na.Ka.No.14606/2023/Voo6 dated 02.02.2024, within the time that may be stipulated by this Court.



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

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.4

Mr.M.Sarangan
Additional Government Pleader for R.5

Mr.A.Albert James
Government Advocate (Criminal Side)
for R.6 & R.7

W.P(MD)No.15386 of 2024:

Peravurani Town Panchayat,
Represented by its Chairman,
Mrs.Shanthi,
W/o.Sekar,
Peravurani,
Thanjavur District.

.... Petitioner

Vs.

1.The State represented by
The Principal Secretary,
Municipal Administration and
Water Supply (TP-II) Department,
Secretariat,
Chennai – 600 009.

2.The Director of Town Panchayats,
75, Santhome High Road,
R.A.Puram,
Chennai – 600 028.



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3.The Assistant Director of Town Panchayats,
District Collectorate,
Thanjavur District.

4.G.Senthil Kumar

... Respondents

Prayer : Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order in Na.Ka.No.14606/2023/Vu6 dated 02.02.2024 on the file of the second respondent and quash the same as illegal and consequently for a direction, forbearing the respondents 1 and 2 from initiating any coercive action against the petitioner without providing any opportunity of hearing and without issuing show cause notice to the petitioner.

For Petitioner : Mr.T.Aswin Raja Simman

For Respondents : Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.3

COMMON ORDER

Heard both sides.

2.Thiru.G.Senthil Kumar, petitioner in W.P(MD)No.16932 of 2024 filed W.P(MD)No.30139 of 2023 levelling serious allegations against the present Chairman of Peravurani Town Panchayat and for taking action against her. The writ petition was disposed of by me on 18.12.2023 in the following terms:



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“2. The petitioner is a contractor. Very serious allegations have been made against the 8th respondent who has been named in person as 9th respondent. Before this Court, two allegations were specifically put forth. The first allegation is that the contracts have been awarded by the local body (Peravurani Panchayat) in favour of the husband and father-in-law of the chair person. The petitioner states that he was awarded with one contract relating to construction of a culvert at pulikutti road. The petitioner specifically states that he did not carry out the contract work for the reason that the bridge was already in existence. While so, the work order was issued and the money was sanctioned and it has also been credited in the petitioner's account. The petitioner states that he is now being pressurized to withdraw the said amount and hand over to the 11th respondent. The petitioner states that he has already given a letter in this regard to the Karur Vysya Bank stating that the amount has been wrongly credited. These are serious allegations that definitely warrant enquiry.

3. The first respondent is directed to look into the petitioner's complaint dated 20.11.2023. The first respondent is directed to give personal hearing of exactly 10 minutes to the petitioner herein. Final order shall be passed on the petitioner's complaint on merits and in accordance with law within a period of twelve weeks from the date of receipt of a copy of this order. Since a direction has been passed at the admission stage itself without putting R8 to R11 on notice, the contentions of the petitioner on the one hand and the private respondents on the



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other are left open. The issue is left to the discretion of the first respondent. I make it clear that I have not gone into the merits of the matter.”

Pursuant to the said direction, enquiry was conducted by the Director of Town Panchayats, Chennai and a report dated 02.02.2024 was submitted to the Government. The Director found merit in several allegations made against the Chairman, Peravurani Town Panchayat. Challenging the said report, the Chairman, Peravurani Town Panchayat has filed W.P(MD)No.15386 of 2024. Seeking initiation of consequential action, W.P(MD)No.16932 of 2024 has been filed.

3.The learned Senior Counsel for the petitioner in W.P(MD)No.16932 of 2024 contended that elaborate provisions have been set out in the Tamil Nadu Local Bodies Ombudsman Act, 2014 for conducting enquiry into the allegations against the elected members of the local bodies and that therefore the present exercise is without jurisdiction.

4.I am not swayed by the said submissions. Section 17 of ACT No.27 OF 2014 (Tamil Nadu Local Bodies Ombudsman Act, 2014) makes it clear that nothing contained in that Act shall affect the provisions of the relevant laws insofar as it relates to public servants. Ms.Shanthi, Chairman of Peravurani



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Town Panchayats had earlier filed W.P(MD)No.6508 of 2024 questioning the communication dated 06.03.2024 issued by the Government calling upon the Director of Town Panchayats to hold enquiry. The said writ petition was disposed of by me on 18.03.2024 in the following terms:

“3. The learned senior counsel appearing for the petitioner strongly contests the said direction. According to the learned senior counsel, the first respondent could not have delegated the function to the second respondent. He also would add that the second respondent is not the competent authority at all. He drew my attention to the relevant provision under the Tamil Nadu Urban and Local Bodies Act, 1998 which states that it is the Principal District Judge who can disqualify the chairperson of the town panchayat. Likewise, if any irregularity has been committed in the affairs of the local body, it is for the ombudsman to recommend the prosecution. I do endorse the said contention. In my view, the first respondent had merely called upon the second respondent to hold further enquiry and after satisfying himself, initiate necessary action. This can only mean that after satisfying himself fully, the second respondent should refer the matter either the District Judge or the Ombudsman. At this stage, the petitioner's rights have not at all been infringed.”

The aforesaid observations made vide order dated 18.03.2024 in W.P(MD)No. 6508 of 2024 will not preclude the Government from taking action as per law. The letter bearing Na.Ka.No.14606/2023/௨௮6 dated 02.02.2024 impugned in W.P(MD)No.15386 of 2024 is a mere communication of the enquiry report to



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the Government. This communication no doubt is adverse to the Chairman.

But it is a mere report which by itself does not infringe the rights of the petitioner. Only when the Government takes consequential action, the petitioner's right would be infringed. It is well settled that challenge to an enquiry report is not maintainable. The enquiry report must culminate into an action. Hence, I hold that W.P(MD)No.15386 of 2024 is not maintainable. It is accordingly dismissed.

5.The statutory scheme setout in the Tamil Nadu Local Bodies Ombudsman Act, 2014 would not displace or dislodge the power of the Government to take action against the erring elected members of the local bodies under the Tamil Nadu Urban Local Bodies Act, 1998. In this case, very serious allegations have been made. Therefore, the Secretary, Municipal Administration and Water Supply Department, Secretariat, Chennai is directed to issue notice to Ms.M.Shanthi, Chairman, Peravurani Town Panchayat and take action as per law after getting necessary explanation. Such notice shall be issued within a period of two weeks from the date of receipt of a copy of this order. The noticee shall be given two weeks thereafter to respond. Final order on merits and in accordance law will be passed within a period of six weeks thereafter.



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6.W.P(MD)No.16932 of 2024 is disposed of accordingly. There shall be

no order as to costs. Consequently, connected miscellaneous petitions are closed.

15.10.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
MGA

To

- 1.The Secretary,
Municipal Administration and
Water Supply Department,
Secretariat, Chennai.
- 2.The Director of Town Panchayat,
7th and 8th Floor,
Urban Administration Building,
75, Santhome High Road,
R.A.Puram,
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- 3.The District Collector,
Thanjavur District,
Thanjavur.
- 4.The Assistant Director of Town Panchayat,
Office of the District Collector,
Thanjavur District.
- 5.The Executive Officer,
Peravoorani Town Panchayat,
Thanjavur District.



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G.R.SWAMINATHAN, J.

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6.The Director,
Vigilance and Anti Corruption,
No.293, MKN Road,
Alandur,
Chennai – 600 016.

7.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Tamil University,
Thanjavur.

W.P(MD)Nos.16932 & 15386 of 2024

and

W.M.P(MD)Nos.14622, 13483 & 13484 of 2024

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