



W.P(MD)No.16900 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.16900 of 2024

and

W.M.P.(MD)Nos.14557 & 14559 of 2023

Sathyaraj

...Petitioner

Vs.

1.The District Collector / Inspector of Panchayats,
Tenkasi District.

2.The Block Development Officer,
(Village Panchayat),
Tenkasi Panchayat Union, Tenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned order of the 1st respondent by his proceedings in Na.Ka.No.COLRD/190/2024/A6, dated 12.01.2024 and quash the same as illegal.

For Petitioner : Mr.G.Prabhu Rajadurai,
for Mr.D.Venkatesh

For Respondents : Mr.D.Gandhiraj,
Special Government Pleader



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ORDER

Challenge has been made to the order of the 1st respondent, dated 12.01.2024, cancelling the cheque signing power of the petitioner.

2.It is the case of the petitioner that he is the Panchayat President of Kuthukkalvalasai and he is discharging his duties to the utmost satisfaction of the villagers. While that being so, on 10.01.2024, one Raganeesh Babu made a complaint before the Inspector of Police, Vigilance and Anti-Corruption Department, Tenkasi District, stating that the petitioner demanded a sum of Rs.46,000/- as bribe for granting permission for building planning. Based on the said complaint, a case has been registered against the petitioner in Crime No.2 of 2024 for the offence punishable under Section 7 of the Prevention of Corruption Act and he was arrested. In such circumstances, the 1st respondent, by invoking his power under Section 203 of the Tamil Nadu Panchayats Act (hereinafter referred to as 'the Act') has passed an order dated 12.01.2024, cancelling the cheque signing power of the petitioner and transferring the same in favour of the 2nd respondent. Challenging the same, the petitioner has filed this Writ Petition.



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3.The learned Special Government Pleader appearing for the respondents would submit that since the petitioner has been arrested, in order to run the administration of the Panchayat, the impugned order came to be passed.

4.Heard the learned counsel on either side and perused the entire materials available on record.

5.Admittedly, the petitioner has been arrested mainly based upon the confession given by the co-accused on 10.01.2024 and subsequently, released on bail. Of course, for the interregnum period, the District Collector, being the Inspector of Panchayats, is entitled to make an alternative arrangement in respect of the cheque signing power.

6.It is relevant to extract Section 188(3) of the Act hereunder:-

“188.Village Panchayat Fund:-

(3) Subject to such general control as the Village Panchayat may exercise from time to time, all cheques for payment from Village Panchayat Fund shall be signed jointly by the President and Vice President and in the absence of the President or Vice President, as the case may be, by the Vice President or the President and another member authorised by the Village Panchayat at a meeting in this behalf.”



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7.The above provision makes it very clear that whenever the post of President is vacant, the cheque signing power can be given to the Vice President. Admittedly, in the present case, the Vice President is also very much available. However, instead of giving power to the Vice President, straightaway, the power has been handed over to the Block Development Officer / 2nd respondent, which is not proper.

8.Further, it is relevant to note that it is not the case of the respondents that the petitioner committed any misappropriation of Panchayat funds, which resulted in initiating action under Section 205 of the Act. Merely on the basis of some allegations raised by some third party, a criminal case has been registered, which is no way connected with the functioning of the Panchayat and the said allegation has been made in a separate context. Therefore, merely based on the said allegation, taking away the power of the President once for all cannot be valid in the eye of law. Further, the petitioner is now released on bail and merely on the basis of the FIR pending against him, it cannot be assumed that he is guilty of the offence.



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9. In such view of the matter, the impugned order of the 1st respondent dated 12.01.2024, is quashed and this Writ Petition is allowed with a direction to the 1st respondent to restore the cheque signing power to the petitioner within a period of one week from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

05.09.2024

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

Yuva

To

1. The District Collector / Inspector of Panchayats,
Tenkasi District.
2. The Block Development Officer,
(Village Panchayat),
Tenkasi Panchayat Union, Tenkasi District.



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N.SATHISH KUMAR, J

Yuva

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