



W.P(MD)No.20405 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR

W.P(MD)No.20405 of 2024

and

W.M.P.(MD)Nos.17314 & 17315 of 2024

1.K.Ramakrishnan
2.S.Dhiwan Maidheen

... Petitioners

Vs.

1.The Secretary,
Municipal Administration Department,
Secretariat, Chennai.

2.The Director of Municipal Administration,
MCR Nagar, Chennai.

3.The Regional Director of Municipal Administration,
Tirunelveli.

4.The District Collector,
Thenkasi District, Thenkasi.

5.The Commissioner,
Kadayanallur Municipality,
Thenkasi District.

6.The Chairman,
Kadayanallur Municipality,
Thenkasi District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Declaration, declaring the meeting



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convened on 16.08.2024 by the respondents 5 and 6 and the resolution passed in the said meeting as illegal and further, to direct the 5th respondent to reconvene the meeting by following the procedure contemplated under the Urban Local Bodies Rules, 2023.

For Petitioner : Mr.T.Lajapathi Roy,
Senior Counsel,
for Mr.J.Anandkumar
For R1 to R4 : Mr.D.Sadiq Raja,
Additional Government Pleader
For R5 : Mr.M.Rajarajan,
Standing Counsel
For R6 : Mr.G.Prabhu Rajadurai

ORDER

This Writ Petition has been filed, seeking declaration to declare the meeting convened on 16.08.2024 by the respondents 5 and 6 and the resolution passed in the said meeting as illegal and further, to direct the 5th respondent to reconvene the meeting by following the procedure as contemplated under the Tamil Nadu Urban Local Bodies Rules, 2023.

2.It is the case of the petitioners that the 1st petitioner is 26th Ward Councilor and the 2nd petitioner is 13th Ward Councilor of Kadayanallur Municipal Council. There are 33 Councilors, including Chairman and Vice



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Chairman. From the date of election ie., 22.02.2022 and after formation of the Municipal Council, the 6th respondent is acting against the welfare and interest of the Municipality and its people. When the matter stood thus, the 6th respondent issued a notice dated 10.08.2024, calling for an ordinary meeting of the Municipal Council on 16.08.2024. The said notice contains agenda for the meeting and various items are mentioned for consideration, where most of the items are seeking to ratify the act done by the Chairman without getting approval of the Council and some of the items are against the financial interest of the Municipality and some of the items are against the very act itself. The meeting and its agenda are totally against the welfare of the Municipality and most of the Councillors have categorically expressed their unwillingness in approving such agenda. However, some of the Councillors attended the meeting and based on their presence, the 6th respondent approved all the agenda and passed the resolution.

3.It is the grievance of the petitioners that though 17 Councilors, out of 33 are against the said agenda and its resolution, the 6th respondent had conducted the meeting and passed the resolution. Therefore, the petitioners and others made a detailed representation on 19.08.2024 to the respondents 1 to 5, highlighting that the very convening of the meeting is against the Tamil Nadu



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Urban Local Bodies Rules, 2023 and passing of resolution is against the circular dated 16.02.2024 issued by the 2nd respondent. Since the same has not been considered so far, the petitioners have filed this Writ Petition with the aforesaid prayer.

4.The learned Senior Counsel appearing for the petitioners would point out that there is no provision under the Act, namely, Tamil Nadu Urban Local Bodies Act, 1998 to pass a resolution for anticipating permission. That apart, mandatory period of six days in giving notice, calling for meeting is also not followed. Further, the very circular issued by the 2nd respondent dated 16.02.2024 itself indicates that during natural calamities and emergent situation only, the Chairman can convene the meeting in a short period and at that time, resolution could be passed in respect of that subject only. Therefore, the circular issued by the 2nd respondent dated 16.12.2023 is also violated. Hence, that entire resolution has to be quashed.

5.The learned Standing Counsel for the 5th respondent would submit that in fact, what is filed, is only agenda papers and the resolution has been passed only thereafter with regard to certain basic amenities work. Therefore, the resolution cannot be put under challenge by way of Writ Petition.



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

7.At the outset, this Court is of the view that mere resolution cannot be put under challenge in this Writ Petition. That apart, the resolution can be either accepted or modified by the Director of the Municipal Administration / 2nd respondent as per Section 55 (2) of the Tamil Nadu Urban Local Bodies Act, 1998.

8.In such view of the matter, since the petitioners have already made a representation before the 2nd respondent, the 2nd respondent is directed to consider the representation of the petitioners and pass appropriate orders on its own merits and in accordance with law, within a period of one month from the date of receipt of a copy of this order.

9.With the above direction, this Writ Petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

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