



W.P(MD)Nos.23258 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2023
Pronounced on : 22.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

W.P(MD)No.23258 of 2022

S.Saravanan

... Petitioner

Vs.

1.The Director, (DVAC),
Vigilance and Anti Corruption,
Alandor,
Chennai-60001.

2.The District Collector,
Kanniyakumari District.

3.The Deputy Superintendent,
Vigilance and Anti Corruption,
No.210/A, Ramanpudur,
Nagercoil,
Kanyakumari 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 writ or order in the nature of writ, directing the respondents to consider the petitioner's representation dated 25.07.2022 and thereby direct the respondents to take necessary action upon the complaint made by the petitioner against the said Putheri Panchayat President.



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For Petitioner : Mr.J.Sivakumar

For Respondents : Mr.T.Senthil Kumar
Additional Public Prosecutor

ORDER

This petition has been filed to direct the respondents to consider the petitioner's representation dated 25.07.2022 and to take necessary action upon the complaint made by the petitioner against the said Putheri Panchayat President.

2.The petitioner is the village head of the Keelaputheri Village in Kanyakumari District and he made a complaint against the Putheri Panchayat President namely P.Kannan and others, by making allegations that he approved more than 50 layout against the law receiving illegal gratification. He also granted approval for putting up the construction in the wet lands without any conversion and also without any proper permission from the Local Planning Authority and Director of Town and Country planning. Hence, the act of the said Panchayat president is against the law under Section 3 of the Tamilnadu Panchayats Building Rules, 1997. Further, he also committed many illegalities in discharging his duty. Therefore, the petitioner made a representation on 25.07.2022



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to the respondents to take action against the said Panchayat President.

Earlier, the petitioner filed the writ petition before this Court in W.P.

(MD).No.2009 of 2022 and this Court passed the following order:paragraph No.4:

4.When the matter was taken up for hearing, the learned Additional Public Prosecutor would submit that the complaint, which was preferred by the petitioner was forwarded to the District Collector, who in turn forwarded the same to the Block Development Officer, Rajakamangalam, for further action. The letter, is dated 06/01/2022. So, the learned Additional Public Prosecutor would submit that proper action has been taken and after receiving the report from the District Collector only, further action will be taken. Since action has been initiated by the District Collector by forwarding the complaint to the Block Development Officer, Rajakamangalam, the respondents cannot take action immediately. So the petitioner can wait for reasonable time for the process to be completed. Even though after the reasonable time, if no action is taken or 3/6 <https://www.mhc.tn.gov.in/judis> WP. (MD)No.2009 of 2022 initiated, the petitioner can work out his remedy through the appropriate proceedings. A request of the petitioner is that a



direction may be issued to the District Collector to complete the enquiry process and file a report. Such request is beyond the scope of the petition. No possible direction can be given to the District Collector. So the request is rejected.

3. Thereafter, there was no action against him. Hence, the petitioner sent another representation on 27.05.2022 to consider the same and to take action against the said Panchayat President. Since no action was taken, the present petition has been filed.

4. When the writ petition came up before this court, this Court adjourned the matter for filing enquiry report.

5. The learned Additional Public Prosecutor represented and also filed a status report stating that regarding the allegation against the said president, the enquiry was conducted and found that he committed illegalities. On the basis of the illegalities, the District Collector/ Inspector of Panchayats, Kanniyakumari District, issued notice under Section 205 of the Tamil Nadu Panchayat Act, 1994, to the said Panchayat president and passed order, in செ.மு.ஆணை.அ/4/2521/2021, on



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30.08.2023, and the said Panchayat President was removed from service.

He also challenged the said proceedings in செ.மு.ஆணை.அ4/2521/2021, on 30.08.2023, and the same is pending before this Court with a stay in W.P.(MD).No.22290 of 2023.

6.The learned counsel appearing for the petitioner by way of reply submitted that admittedly, the said proceedings under Section 205 of the Tamil Nadu Panchayat Act, 1994, is entirely different. The allegation made by the petitioner against the said Panchayat President was substantiated, through the finding made by the committee. Hence, this is a fit case and this Court may direct the first respondent to conduct the investigation for the illegalities committed by the said Panchayat president.

7.This court considered the rival submission and also perused the record and also status report filed by the learned Additional Public Prosecutor.

8.The petitioner sent a representation, on 25.07.2022, to the first respondent with specific allegation that the said Panchayat president



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misappropriated and caused loss to the Government by committing many illegalities. The same was enquired by the District Collector/ Inspector of Panchayats, Kanniyakumari District. It is well settled principle that the initiation of the proceedings under Section 205 of the Tamil Nadu Panchayat Act, 1994 is not a bar. In this case, the allegations of the petitioner were found true and hence, the competent authority acted as per the Tamil Nadu Panchayat Act, 1994, and passed the order of removal against the said Panchayat President from the post of president.

9. In the said circumstances, this court is of firm view that the allegation made by the petitioner against the said Panchayat president is to be enquired by the first respondent by initiating preliminary enquiry. This Court makes it clear that the first respondent is directed to conduct preliminary enquiry uninfluenced by the order passed by the District Collector/ Inspector of Panchayats, Kanniyakumari District. In the result, the writ petition is disposed of with the following direction;

9.1. The first respondent is hereby directed to conduct the preliminary enquiry and complete the same within a period of four months from the date of



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receipt of a copy of this order.

9.2.If any cognizable offence is made out, it is open to the first respondent to proceed further in accordance with law.

22.02.2024

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

To

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Alandor,
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- 2.The District Collector,
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- 3.The Deputy Superintendent,
Vigilance and Anti Corruption,
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Nagercoil,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K. RAMAKRISHNAN. J.,

vsg

Pre-delivery order made in
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Dated : 22.02.2024