



W.P.(MD).No.22390 of 2023

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.22390 of 2023

M.Rajakumaran

... Petitioner

Vs.

- 1.The Director,
Department of Vigilance and Anti Corruption,
293, MKN Road, Collector Nagar,
Alanthur, Chennai-16.
- 2.The Deputy Superintendent of Police,
Department of Vigilance and Anti-Corruption,
Thoothukudi District.
- 3.The Principal Secretary to the Government,
Rural Development and Panchayatraj Department,
Secretariat, Chennai.
- 4.The District Collector,
Thoothukudi,
Thoothukudi District.
- 5.The Assistant Director(Village Panchayat),
Thoothukudi District.
- 6.The Panchayat President,
Kayamozhi Village Panchayat,
Thiruchenur Panchayat Union,



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Thoothukudi District.

7.Mr.Ramraj,
The Special Officer/Block Development Officer,
Kayamozhi Village Panchayat,
Thiruchendur Panchayat Union,
Thoothukudi District.

8.Mrs.Shanthi
The Assistant Block Development Officer,
Zone I, Kayamozhi Village Panchayat,
Thiruchendur Panchayat Union,
Thoothukudi District.

9.Mr.Ravichandran,
The Assistant Engineer,
(Rural Development),
Thiruchendur Panchayat Union,
Thoothukudi District.

10.Mrs.Isakkiammal,
The Secretary,
Kayamozhi Village Panchayat,
Thiruchendur Panchayat Union,
Thoothukudi District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of Constitution of India to issue a writ of Mandamus directing the respondents 1 and 2 to initiate the criminal proceedings against the respondent Nos.7 to 10 by considering the petitioner's representation dated 21.05.2022.



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For Petitioner : Mr.A.Robinson

For Respondents : Mr.T.Senthilkumar
Additional Public Prosecutor
for R1 to R6

: Mr.R.Gowri Shankar for R10

ORDER

The petitioner herein has filed this writ petition seeking mandamus directing the respondents 1 and 2 to initiate the criminal proceedings against the respondent Nos.7 to 10 by considering the petitioner's representation dated 21.05.2022.

2. The petitioner is the State Secretary of Tamil Nadu Congress Human Rights Wing doing social service for the development of general public in and around his residential area namely Kayamozhi Village Panchayat, Thiruchendur Taluk, Thoothukudi District. He was one of the resident of Kayamozhi village Panchayat. During the financial year 2019-2020, the private respondent Nos.7 to 10 were in the management of the said panchayat activities. They fabricated some documents illegally and misappropriated the funds of the Kayamozhi village Panchayat as if they made repair works by using M-sand and JCB Vehicle. Therefore, he gave the representation on 21.05.2022 to the fourth and other respondents. The fourth respondent forwarded the same to the fifth



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respondent. Thereafter, there was no communication and there was no action against the private respondents for their alleged misappropriation of amount by forging the records and falsification of the account. Thereafter, he filed a writ petition seeking writ of mandamus to take action against the respondent Nos.7 to 10 by considering his representation dated 21.05.2022.

3. This Court after issuing notice, asked the District Collector to file a counter for the allegation made in the complaint. Pursuant to which, the District Collector filed the counter stating that he appointed the Assistant Director of Audit to look into the allegation made by the petitioner. The Assistant Director Audit, conducted detailed enquiry and submitted that there was no misappropriation as alleged by the petitioner. The enquiry report was enclosed in the counter affidavit in Paragraph No.14, which reads as follows:



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IN THE HIGH COURT OF JUDICATURE AT MADRAS
MADURAI BENCH
(Special Original Jurisdiction)

W.P.(MD) No. 22390 of 2023

M. Rajakumaran,
S/o Maharesjan,
No.6/99A, South Street,
Kayanmozhi,
Tiruchendur Taluk,
Thoothukudi District

Petitioner

Vs-

1. The Director,
Department of Vigilance and Anti Corruption,
293, M.N. Road, Collier Nagar,
Alambur, Chennai-16.
2. The Deputy Superintendent of Police,
Department of Vigilance and Anti Corruption,
Thoothukudi District.
3. The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat, Chennai
4. The District Collector,
Thoothukudi,
Thoothukudi District.
5. The Assistant Director (Village Panchayats),
Thoothukudi District
6. The Panchayat President,
Kayanmozhi Village Panchayat,
Tiruchendur Panchayat Union,
Thoothukudi District.

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Correspondence

Assistant Director of
Rural Development (Panchayats)
Thoothukudi

COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI



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allegations contained therein except those that are specifically admitted hereunder and the Petitioner herein is put to strict proof thereof. I am filing the present status report as ordered by this Hon'ble Court dated 15.09.2023.

2. It is submitted that the Petitioner herein has filed the present writ petition for a Writ of Mandamus directing the respondents 1 to 2 to initiate criminal proceedings against the Respondents 7 to 10 by considering his representation dated 21.05.2022.

3. It is submitted that the factual matrix germane to the present status report is given in nutshell as below:-

i) The Petitioner herein lodged a complaint with the District Collector, Thoothukudi dated 29.09.2020 to order for re-audit of the accounts of the Kayamozhi village Panchayat for the financial year 2016-2017 to 2018-19 and to take action against Tmt. Isakkiammal, the Panchayat Secretary for misappropriation.

ii) The Petitioner herein without waiting for process of enquiry, filed a writ petition before this Hon'ble Court in WP (MD) No. 17842 of 2020 for a direction to take action against the said Panchayat Secretary under section 104 of Tamil Nadu Panchayat Act, 1994 and this Hon'ble Court by an order dated 07.12.2020 was pleased to direct the District Collector and the Assistant Director (Audit) to take action on merits and in accordance with law within a period of 3 months.

Page No: 3
Correction: Nil

[Signature]
Assistant Director of
Rural Development (Panchayats)
Thoothukudi

[Signature]
COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI



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iii) In accordance with the above order, the District Collector vide Letter No. V12/29521/2020 dated 21.12.2020 directed the Assistant Director (Audit) to conduct detailed enquiry on the representation of the Petitioner and to submit a detailed report in case disciplinary action has to be initiated against the Panchayat Secretary.

iv) The Assistant Director (Audit) who conducted in-depth special audit and enquiry submitted his report in Ruc. A5/127/2020 dated 02.03.2021 indicating the financial irregularity committed by the Panchayat Secretary.

v) Since in the audit report it has been indicated that the Panchayat Secretary did not produce records and receipts for the audit, he was directed to conduct a detailed audit and submit his report vide Ruc. No. V12/29521/2020-2 dated 11.03.2021.

vi) On the basis of the audit report of the Assistant Director (Audit) in Ruc A5/1275/2020 dated 02.03.2021, the Panchayat President of Kayamozhi village placed the Panchayat Secretary under suspension vide orders in Rc 1/2021 dated 12.03.2021.

vii) The President of Kayamozhi Village Panchayat, the competent authority has also caused service of notice seeking for explanation for the delinquencies vide Notice in Rc. No. 1/2021 dated 17.05.2021.

viii) Since the Panchayat Secretary produced all the receipts which were not produced for audit earlier and submitted reply to the

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Correction : Nil

Assistant Director of
Rural Development (Panchayats)
Thoothukudi

COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI



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explanation and taking into consideration of the family circumstances, the order of suspension was revoked vide Rc. No. 2/2021 dated 01.06.2021.

ix) The Assistant Director (Audit) submitted his detailed report after perusing all the receipts which were not produced earlier in Roc. A5/1275/2020 dated 04.06.2021,

x) The Petitioner herein filed yet another writ petition before th is Hon'ble Court in WP (MD) No. 12976 of 2021 and this Hon'ble Court passed a interim order in WMP (MD) No.10044 of 2021 in WP (MD) No. 12976 of 2021 as,

"The 4th Respondent should show cause why appropriate action should not be taken against such respondent and the sixth respondent removed as Panchayat Secretary, Kayamozhi village panchayat, in view of the order dated March 12, 2021 passed by the 4th Respondent. Any involvement of the sixth respondent in the matter of disbursement of any funds subsequent to March 12 2021 may call for scrutiny and the sixth respondent may be liable to refund the same if an anomaly is discovered".

xii) The Collector vide Rc. V12/2952/2020 dated 28.03.2022 directed the Assistant Director (Audit) to conduct audit of the receipt books subsequent to March 12 2021 and submit a detailed report.

xiii) The Assistant Director (Audit) after taking up audit of the receipts submitted a report vide Roc. A5/1275/2020 dated

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Correction: Nil

[Signature]
Assistant Director of
Rural Development (Panchayats)
Thoothukudi

[Signature]
COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI



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Panchayat), Tiruchendur Panchayat Union, Zonal Deputy Block Development Officer, Union Engineer and the Village Panchayat President were present during the enquiry and verification of records during the relevant period in time.

b) During the year 2019-2020, due to heavy rains during North East Monsoon in the months of November and December, huge amount of rain poured causing extensive damages by stagnating in the roads in Ramnathapuram, Valluvar Nagar, Therikudiyiruppu, Main Road, Kayamozhi Kulathu Karai Oorani in Kaamozhi Village Panchayat limit and hence rehabilitative measures were taken on war footing to drain the stagnated water by using sand/sand obtained from quarry site and for this purpose tender was floated. Three companies offered their bids and the tender was awarded to Alanganandam Agency. The work was done by the tenderer in the presence of Revenue Inspector, Village Administrative Officer and the Village Assistants. The photographs taken were submitted during the verification of records. It was seen that the said M/s Alaganandam Agency was paid the following amount as per the voucher and receipts available in the Village Panchayat Office:

1.	171/6.12.2019	..	Rs.19600/-
2.	172/6.12.2019	..	Rs.19600/-
3.	174/9.12.2019	..	Rs.19600/-
4.	175/9.12.2019	..	Rs.19600/-
5.	176/9.12.2019	..	Rs.19600/-

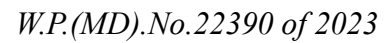
The said M/s Alaganandam Agency was involved in getting and selling the excess said in the quarry site in whole sale business. The GST No.33EAQPP3828HIZB and that M/s Selvam Agency and

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Correction : Nil

Director of
Rural Development (Panchayats)
Thoothukudi

COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI



much less the Mandamus sought for which is liable for dismissal in limine.

Therefore, it is most humbly prayed that this Hon'ble Court may be pleased to dismiss the writ petition as devoid of merit and pass such other order as this Hon'ble Court may deem it fit and proper in the circumstances and thus render justice.

Solemnly affirmed and signed his name
in my presence at Thoothukudi, this the
day of September, 2023.

COLLECTOR
THOOTHUKUDI DISTRICT
THOOTHUKUDI

/before me/

Assistant Director of
Rural Development (Panchayats)
Thoothukudi

5. In view of the above, the grievance of the petitioner is redressed by the competent officer namely the District Collector and the enquiry is also conducted and hence, this court finds no merits in the petition in view of the submissions made in the counter affidavit that there was no misappropriation of funds as alleged in the petition.



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6. Accordingly, this writ petition stands dismissed. There shall be no order as to costs.

22.02.2024

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

To

1. The Director,
Department of Vigilance and Anti Corruption,
293, MKN Road, Collector Nagar,
Alanthur, Chennai-16.
2. The Deputy Superintendent of Police,
Department of Vigilance and Anti-Corruption,
Thoothukudi District.
3. The Principal Secretary to the Government,
Rural Development and Panchayatraj Department,
Secretariat, Chennai.
4. The District Collector,
Thoothukudi,
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5. The Assistant Director(Village Panchayat),
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6. The Panchayat President,
Kayamozhi Village Panchayat,
Thiruchenur Panchayat Union,
Thoothukudi District.



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K.K.RAMAKRISHNAN, J.

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