



W.P.(MD)No.28697 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.11.2024**

CORAM:

THE HONOURABLE **MRS.JUSTICE L.VICTORIA GOWRI**

W.P.(MD)No.28697 of 2024

and

W.M.P(MD)No.24333 of 2024

Abubacker Ajwadh @ Natchathira Councillor ... Petitioner

Vs.

1.The Commissionerate of Municipal Administration,
No.3, MRC Nagar,
Raja Annamalaipuram,
Chennai-600 028.

2.The Regional Director of Municipal Administration,
Tirunelveli-627 002.

3.The District Collector,
No.7A, PSP Nagar, Korampallam,
Tuticorin-628 101.

4.The Commissioner,
Kayalpattinam Municipality,
No.49, Mutharamman Kovil Street,
Kayalpatnam,
Tuticorin-628 204.

5.The Chairperson,
Kayalpattinam Municipality,
No.49, Mutharamman Kovil Street,
Kayalpatnam,
Tuticorin-628 204.

... Respondents



W.P.(MD)No.28697 of 2024

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records pertaining to the impugned proceedings passed by the fourth respondent under Rules 160(8)(i) in Part-I, Chapter-IV of Tamilnadu Urban Local Bodies Rules 2023 in Na.Ka.No. 1830/2024/E1, dated 21.11.2024 and quash the same as illegal.

For Petitioner	: Mr.Sankarapandian for Mr.K.Jayaseelan
For R1 to R3	: Mr.J.Ajmal Khan Government Advocate
For R4 & R5	: Mr.R.Baskaran Additional Advocate General assisted by Mr.Nirmalkumar

ORDER

Challenging the impugned order of suspension of the petitioner from attending two ordinary meetings of the Councilor under Rules 160(8)(i) in Part-I, Chapter-IV of the Tamilnadu Urban Local Bodies Rules 2023, dated 21.11.2024 this writ petition came to be filed.

2. Heard the learned counsel on both sides and carefully perused the entire materials available on record.

3. The petitioner is the Councilor of Kayalpatnam Municipality, who has been elected twice for a period of 2011-2016 and from 2021 to till date. He is



W.P.(MD)No.28697 of 2024

the Councilor of Ward No.17 of the Kayalpatnam Municipality. On 28.10.2024

when the Ordinary Meeting of Kayalpatnam Municipality was conducted, it is contended by the learned counsel for the petitioner Mr.Sankarapandian that, the petitioner had engaged himself in a meaningful discussion without deviating from any of the subject of the ordinary council meeting, however, the fifth respondent intervened and disturbed the petitioner's submission. However, without informing and putting him on notice, the impugned order dated 21.11.2024 has been issued and the same was served to the petitioner on 23.11.2024 suspending the petitioner's participation from the next two meetings of the councillor.

4. The learned counsel for the petitioner relied upon the Clause (i) in Rule 160(8) of Tamilnadu Urban Local Bodies Rules, 2023 and submitted that a member shall be guilty of breach of the rules governings the proceedings of the council, if he, uses any objectionable or unparliamentary words or language in his speech and refuses to withdraw such words or refuses to tender apology as required by the Chairperson. Such part of the speech shall not be recorded in the proceedings of the council meeting and he further argued that if any member commits the breach of order referred to in clause (i) for the second or subsequent times, any member or the Chairperson may move a resolution for



W.P.(MD)No.28697 of 2024

suspension of the member for any one or two ordinary meetings, and on the resolution being passed by the Council, the member concerned shall be deemed to be suspended as resolved by the Council. In this case, this is the first instance. They ought not to have resolved to suspend the petitioner from attending the councillor meeting and passed the impugned order. For which, he relied upon the Rule 160(8)(iii) of Tamilnadu Urban Local Bodies Rules, 2023.

5. Per contra, Mr.R.Baskaran, learned Additional Advocate General representing Mr.Nirmalkumar appearing for the respondents 4 & 5 would submit that, a careful reading of Rule 160(8)(iii) would make it clear that if any member commits the breach of order referred to in Clause (i) for the second or subsequent times, any member or the Chairperson may move a resolution for suspension of the member for any one or two ordinary meetings, and on the resolution being passed by the Council, the member concerned shall be deemed to be suspended as resolved by the Council. In the present case, the petitioner had exhibited his unruly behaviour not once, but continuously in the Council meeting as narrated Rule 160(8)(i) of the Tamilnadu Urban Local Bodies Rules, 2023 and hence, the impugned order came to be passed.



W.P.(MD)No.28697 of 2024

6. The learned counsel for the petitioner denied any such unruly behaviour by the petitioner.

7. Though the arguments of the learned counsel for the petitioner is impressive, it is not accepted by this Court. In a democratic system, a Council shall move ahead only on the opinion of the majority. Since the majority of the councillors resolved the petitioner to be suspended for the next two meetings, this Court do not want to interfere with the same. The second respondent is directed to furnish the copy of the resolution to the petitioner forthwith.

8. The learned counsel for the petitioner vehemently objects to the observation of this Court that the unruly behaviour of the petitioner has resulted in the majority of the councillors of the council meeting resolving a resolution against the petitioner. He categorically submitted that the petitioner had never ever behaved in any of the manner as narrated in the said resolution. Hence, the second respondent Corporation is directed to furnish the CCTV Footage of the Council Meeting to the petitioner forthwith along with copy of the resolution. If the contention of the petitioner is found genuine, the petitioner is at liberty to reopen the writ petition.



W.P.(MD)No.28697 of 2024

9. With the above observation, the writ petition stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

28.11.2024

NCC : Yes / No

Index : Yes / No

am

To

1.The Commissionerate of Municipal Administration,
No.3, MRC Nagar,
Raja Annamalaipuram,
Chennai-600 028.

2.The Regional Director of Municipal Administration,
Tirunelveli-627 002.

3.The District Collector,
No.7A, PSP Nagar, Korampallam,
Tuticorin-628 101.

4.The Commissioner,
Kayalpattinam Municipality,
No.49, Mutharamman Kovil Street,
Kayalpatnam,
Tuticorin-628 204.

5.The Chairperson,
Kayalpattinam Municipality,
No.49, Mutharamman Kovil Street,
Kayalpatnam,
Tuticorin-628 204.



WEB COPY



W.P.(MD)No.28697 of 2024

L.VICTORIA GOWRI, J.

am

Order made in
W.P.(MD)No.28697 of 2024

Dated
28.11.2024