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W.P.No.4058 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2025

CORAM:

THE HONOURABLE MR. JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.4058 of 2025

and

W.M.P.No.4562 & 4563 of 2025

M.MANOHARAN

... Petitioner

Vs

1. THE STATE OF TAMILNADU
REP BY ITS PRINCIPAL SECRETARY TO GOVERNMENT,
SOCIAL WELFARE AND WOMEN EMPOWERMENT (SANA.5(1)
DEPARTMENT,
SECRETARIAT, FORT ST. GEORGE,
CHENNAI- 600 009.
2. THE DIRECTOR
THE CHILDREN WELFARE AND SPECIAL SERVICES DEPARTMENT,
PURASAIVAKKAM HIGH ROAD,
KELLYS, CHENNAI- 600 010.
3. THE DISTRICT COLLECTOR
VILLUPURAM,
VILLUPURAM DISTRICT- 605 602.
4. THE JOINT SECRETARY, (ENQUIRY OFFICER)
THE SOCIAL WELFARE AND WOMEN EMPOWERMENT DEPARTMENT,
CHENNAI- 600 009.
5. THE DISTRICT CHILDREN PROTECTION OFFICER
VILLUPURAM,
VILLUPURAM DISTRICT- 605 602.

... Respondents



W.P.No.4058 of 2025

Prayer: Writ Petition filed under Article 226 of Constitution of India for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order issued by the first respondent in G.O.(Pa) No.04 Social Welfare and Women Empowerment [SaNa.5(1)] Department, dated 02.01.2025 and to quash the same and consequently directing the respondents to allow the petitioner to continue in Post as Committee Member of the Children Welfare Committee, Villupuram District, till the end of his tenure period, with all consequential and other attendant benefits.

For Petitioner : Mr.S.Natarajan
For Respondents : Mr.E.Vijay Anand
Additional Government Pleader

ORDER

The writ petition is filed seeking a writ of Certiorarified Mandamus, to call for the records relating to the impugned order made in G.O.(Pa). No. 04, Social Welfare and Women Empowerment [SaNa.5(1)] Department, dated 02.01.2025 and to quash the same.

2. The brief factual background in which this writ petition arises is that the petitioner was appointed as a member of the Child Welfare Committee. Subsequently, there were complaints about certain exercises and omissions committed by him. An enquiry seems to have been conducted by the fourth



W.P.No.4058 of 2025

respondent, during which the petitioner was given an opportunity to submit an explanation regarding these charges. After the enquiry was concluded, the fourth respondent found that the charges against the petitioner has proved. Based on this, the impugned order in G.O.(Pa). No. 04, Social Welfare and Women Empowerment [SaNa.5(1)] Department, dated 02.01.2025 was passed, removing the petitioner as a member of the Child Welfare Committee.

3. The learned counsel appearing on behalf of the petitioner would submit that, in this case, a proper enquiry should have been conducted by framing of charges. In any event, the enquiry report was not furnished to the petitioner and the impugned order of punishment was passed by the first respondent on the basis of the report of enquiry by the fourth respondent.

4. Per contra, the learned Additional Government Pleader appearing on behalf of the respondents would submit that since the matter is coming up only for admission, he may seek instructions from the respondents.

5. However, in view of the nature of relief that is going to be granted and the records itself being very clear, the writ petition is disposed of at the



W.P.No.4058 of 2025

admission stage itself.

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6. This is not a regular post. It is a tenure post which is conferred on the Members on an honorary basis. The rules governing the post are framed vide G.O.(Ms). No. 5, dated 30.01.2024. The Rule 2(H) states that if any complaint is made against the Chairperson of the committee or a member of the board or committee, the Government shall conduct the necessary enquiry, except in the case of judicial officers and complaints against judicial officers shall be forwarded to the Registrar of the High Court for action. It further states that no chairperson or a member of the Board or Committee shall be removed without holding an enquiry by the Government and until that person has been given an opportunity of being heard in the matter.

7. In this case, the petitioner was not a judicial officer and was appointed as a member of the Committee. Therefore, the Government has the jurisdiction to hold an enquiry. The contention that the regular procedure, as contemplated under Rule 17B of the Tamil Nadu Government Servants (Discipline and Appeal) Rules, should be followed cannot be countenanced, since these are tenure posts and not a regular posts. These tenure posts are on



W.P.No.4058 of 2025

honorary basis and the rule only contemplates a formal inquiry and an opportunity of being heard.

8. In that regard, an opportunity to be heard has been given and as a matter of fact, the fourth respondent conducted an enquiry. The only thing is that when the Authority who is passing the order itself is not the enquiring authority and relies on the report of the fourth respondent, then the copy of the said report has to be furnished to the petitioner and an opportunity has to be given for him to submit his explanation. Without this, the requirement of the rule that an opportunity of being heard will not be satisfied.

9. In that view of the matter, this writ petition is disposed of on the following terms:-

(i) The impugned G.O.(Pa). No. 04, Social Welfare and Women Empowerment [SaNa.5(1)] Department, dated 02.01.2025, shall stand quashed.

(ii) The matter is remitted back to the first respondent. The first respondent shall forward the enquiry report of the fourth respondent and shall give an opportunity for the petitioner to submit his further explanation and thereafter pass fresh orders by considering the further explanation that



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W.P.No.4058 of 2025

may be submitted by the petitioner;

(iii) It will be open for the first respondent either to permit the petitioner to remain in charge of the post or to keep him away while undertaking this exercise. The entire process shall be completed within a period of 12 weeks from the date of receipt/production of the website uploaded copy of this order without waiting for the certified copy of this order.

(iv) No costs. Consequently, connected miscellaneous petition is closed.

07.02.2025

Neutral Citation: Yes/No
nsl

To

1. THE PRINCIPAL SECRETARY TO GOVERNMENT,
SOCIAL WELFARE AND WOMEN EMPOWERMENT (SANA.5(1))
DEPARTMENT,

6/8



W.P.No.4058 of 2025

SECRETARIAT, FORT ST. GEORGE,
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THE CHILDREN WELFARE AND SPECIAL SERVICES DEPARTMENT,
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VILLUPURAM,
VILLUPURAM DISTRICT- 605 602.

D.BHARATHA CHAKRAVARTHY, J.

nsI



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W.P.No.4058 of 2025

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