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W.P(MD) No. 11964 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **07-01-2025**

CORAM

THE HONOURABLE MR JUSTICE S. S. SUNDAR

AND

THE HONOURABLE MR.JUSTICE P. DHANABAL

WP(MD) No. 11964 of 2024

and

WMP (MD) No. 10650 of 2024

Jayanthi
W/o. Backiyam,

Appellant

Vs

1.The Inspector Of Panchayat /
District Collector
Virudhunagar District, Virudhunagar.

2. The Assistant Director of Panchayat (V.P)
Collectorate Campus,
Virudhunagar.

3.The Block Developmental Officer (V.P)
Virudhunagar Panchayat Union,
Virudhunagar District.

...Respondents

Prayer : Writ petition is filed under Article 226 of Constitution of India to issue a writ of certiorarified mandamus, calling for the records relating to the impugned notice issued by the 1st respondent in Na.Ka.No.U.E1/10/2021, dated 28.05.2024 and quash the same and direct the respondents to allow the petitioner to sign all the cheques of Kanniseri Pudur Village Panchayat in the capacity of President within a stipulated period.



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For Petitioner: Mr.P.Subramanian

For Respondents: Mr.R.Ramanlal, AAG

Assisted by

Mr.T.Arun Kumar, AGP

ORDER

(Order of the Court was made by the Hon'ble S.S.Sundar J.)

This writ petition is posted before this Court by way of reference, after obtaining orders from the Hon'ble Acting Chief Justice.

2. The question to be decided by this Division Bench is whether the District Collector, Virudhunagar, in his capacity as Inspector of Panchayat, can take away the cheque-signing power of the Panchayat President.

3. Referring to the specifics of the case, the learned Single Judge sought for reference before the Larger Bench seeking answers to the question whether the District Collector, in his capacity as Inspector of Panchayat, can take away the cheque-signing power of the Panchayat President by exercising powers under Section 203 of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as "the Act").



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4. However, another Division Bench to which one of us is a party, by judgment dated 12.09.2024, considered a batch of writ petitions where a similar issue arose for consideration. The Hon'ble Division Bench extensively dealt with all judgments on this issue and held that the District Collector can exercise the power under Section 203 of the Act. It is also held that a show cause notice is mandatory before invoking cheque signing power. q While upholding the cheque-signing authority of the elected president under Section 203 of the Act, the Division Bench further held that the power to suspend the cheque-signing authority cannot be invoked merely because proceedings against the president are pending as contemplated under Section 203 of the Act. The relevant portion of the judgment is extracted hereunder:

(25)From the examination of the provisions of the Act as well as the precedents, we have above referred to, the conclusion inescapable is that the Inspector of Panchayat enjoins a power to revoke the cheque signing authority temporarily in case the circumstances contemplated under Section 203 of the Act exist. In a case where the President or Vice President refuses to sign cheque and thereby trying to delay execution of any work or doing of any act which a Panchayat or Executive Authority or Commissioner is empowered to execute. However, in a case where there are mere allegations of misappropriation, mismanagement or other allegations which warrant the Inspector of Panchayat to take action under Section 205 of the Act, the emergency power cannot be exercised under Section 203 of the



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Act to withdraw or suspend the cheque signing authority of elected President or Vice President of the Panchayat.

(26) Coming to the case on hand, the writ petitioners in all the writ petitions are elected Presidents of different Panchayats. In all the cases, there was no prior notice giving any opportunity to the writ petitioners. Therefore, the impugned orders are in violation of principles of natural justice and hence, they are liable to be quashed.

(27) It is also to be noted that the allegations against the writ petitioners do not warrant invocation of emergency power of Collector under Section 203 of the Act to suspend even temporarily the cheque signing authority of the President. The respondents in their counter affidavit has failed to satisfy the statutory requirement in tune with Rule 3 of the Rules 2001 before exercising the power under Section 203 of the Act

5. In view of the aforesaid decision of this Court, referring to all the judgments, this Court reaffirms the same and answers the reference sought on the following lines:

- a) The District Collector, in his capacity as Inspector of Panchayat, has the power to revoke or suspend the cheque-signing authority of the president or vice president if there exist situations as contemplated under Section 203 of the Act.
- b) Such power under Section 203 of the Act can be exercised only after issuing a show-cause notice and observing the principles of natural justice.



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c) Merely because there is allegation regarding misappropriation, mismanagement, or any irregularities and proceedings under Section 205 of the Act are pending, the emergency power under Section 203 cannot be exercised.

6. In the present case on hand, the impugned order shows that the emergency power is exercised citing pendency of proceedings under Section 205 of the Act against the petitioner. The allegations against the petitioner do not satisfy the exigencies required for invoking emergency powers under Section 203 of the Act as observed in the aforesaid decision of the Hon'ble Division Bench of this Court.

7. Based on the foregoing analysis and in light of the earlier decision of this Court in the batch of writ petitions, the impugned order dated 28.05.2024 passed by the 1st respondent is set aside. The writ petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.S.SUNDAR J.) (P.DHANABAL J.)
07-01-2025

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Internet : Yes
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S. S. SUNDAR., J.

and

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