



W.P.(MD)No.3260 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.10.2025

CORAM

THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

W.P.(MD)No.3260 of 2021

and

W.M.P.(MD).No.2590 of 2021

R.Seenivasagam

... Petitioner

Vs.

1.The District Collector,
Virudhunagar District,
Virudhunagar.

2.The Assistant Director of Rural Development (Panchayat),
Virudhunagar District, Virudhunagar.

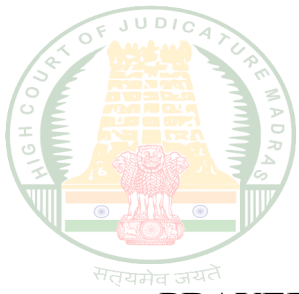
3.The Personal Assistant (Development) to the Collector,
Virudhunagar District, Virudhunagar

4.The Block Development Officer (Village Panchayat),
Sivakasi Union,
Virudhunagar District

5.The President,
Sithurajapuram Gr-I Village Panchayat,
Sivakasi Panchayat Union,
Virudhunagar District.

6. S.Leelavathy

... Respondents



W.P.(MD)No.3260 of 2021

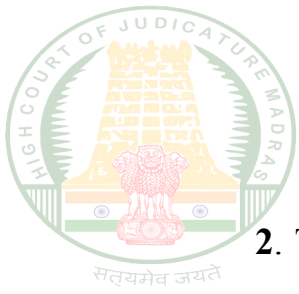
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PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of writ of Certiorarified Mandamus, calling for the records pertaining to the impugned proceedings dated 27.01.2021 issued by the fifth respondent and quash the same and consequently direct the respondents to reinstate the petitioner with continuity of service and disburse all the back wages.

For Petitioner	: Mr.Isaac Mohanlal, Senior Counsel, for Mr.P.R.Prithiviraj
For R-1 to R-5	: Mr.A.Baskaran, Additional Government Pleader
For R-6	: Ms.H.Jasima Yasmin, for M/s.Ajmal Associates

ORDER

This writ petition has been filed challenging the impugned proceedings dated 27.01.2021 issued by the fifth respondent removing the petitioner from service on the ground that the Panchayat President is not the competent authority to remove the petitioner from service and also on the ground that the charges framed against the petitioner in the disciplinary proceedings are flimsy, vague and have been framed only on account of the personal vendetta.



W.P.(MD)No.3260 of 2021

2. The learned Senior Counsel appearing for the petitioner would submit

WEB as follows:

a). As per the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, (hereinafter referred to as 'the Rules, 2013') the competent authority and the removal authority is only the Personal Collector to Collector (Administration) (third respondent). However, under the impugned order, the petitioner has been dismissed from service by the Panchayat President, who is not the competent authority.

b). The Tamil Nadu Panchayats Act, 1994, (hereinafter referred to as 'the Act') referred to supra were stayed only in respect of the petitioner, who had filed the writ petition before this Court in W.P.(MD).No.16884 of 2013.

c). The same has also been clarified by the modification order passed by this Court in the aforesaid writ petition on 19.04.2017.

d). The charges framed against the petitioner in the disciplinary proceedings were 11 in number and out of the said 11 charges, DVAC had also investigated eight charges and the DVAC has found that the said eight charges are unfit for further consideration.



W.P.(MD)No.3260 of 2021

WEB COPY **e).** The entire set of 11 charges framed against the petitioner in the disciplinary proceedings is vague, flimsy and have been framed only on personal vendetta and with malafides.

2.(i). The learned Senior Counsel appearing for the petitioner would further submit that in the Division Bench decisions relied upon by the learned counsel appearing for the sixth respondent viz.,

a). The Division Bench judgment dated 23.08.2024 passed in W.A. (MD).No.1772 of 2023.

b). The Division Bench judgment dated 02.07.2025 passed in W.A. (MD).No.412 of 2020, the learned counsels, who had appeared in those cases never brought to the notice of the respective Division Bench about the clarification order passed by the learned Single Judge of this Court in W.P. (MD).No.12032 of 2014 etc batch, dated 19.04.2017, wherein, the learned Single Judge has modified the earlier order by making it clear that the interim stay of the Rules is applicable only for the petitioner alone in the said writ petition. Therefore, the learned Senior Counsel appearing for the petitioner would submit that the decisions relied upon by the learned counsel appearing



W.P.(MD)No.3260 of 2021

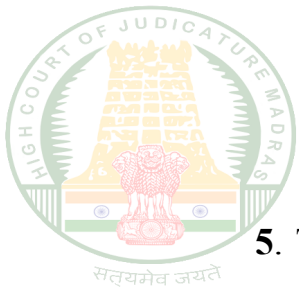
for the sixth respondent does not have any bearing to the facts of the present

case.

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3. The learned Senior Counsel appearing for the petitioner also drew the attention of this Court to the order passed by the Enquiry Officer rejecting the petitioner's request for engaging a Lawyer to defend him in the enquiry proceedings and would submit that, it would amount to violation of the principles of natural justice. He would submit that just because the Management (respondents) had not engaged a Lawyer, the petitioner, who is the delinquent, cannot be prevented from engaging a Lawyer, which amounts to violation of the principles of natural justice.

4. The learned Senior Counsel appearing for the petitioner would submit that in respect of charge Nos.2 to 6, earlier, the very same set of charges were framed against the petitioner by the first respondent, but, was not proceeded thereafter by the respondents, pursuant to the explanation submitted by the petitioner. Hence, if the same set of charges are investigated once again, it amounts to double jeopardy.



W.P.(MD)No.3260 of 2021

5. The learned counsel appearing for the sixth respondent would submit

WEB as follows:

a). Sufficient opportunity was given to the petitioner in the enquiry proceedings. The petitioner also participated in the enquiry proceedings and had also cross-examined the witnesses of the respondents. However, after cross-examining the witnesses of the respondents, the petitioner failed to further participate in the enquiry proceedings by letting in any evidence on his side.

b). She would submit that only based on the findings rendered in the enquiry report, which held that the charges framed against the petitioner were proved, the Disciplinary Authority, viz., the official respondents have imposed the punishment of dismissing the petitioner from service.

6. The learned Counsel appearing for the sixth respondent with regard to the grounds raised by the petitioner that the Panchayat President is not a competent authority to pass the dismissal order is concerned, she would submit as follows:

a). By the modification order referred to supra passed by this Court in the writ petition filed by a delinquent, it was made clear that the Tamil Nadu



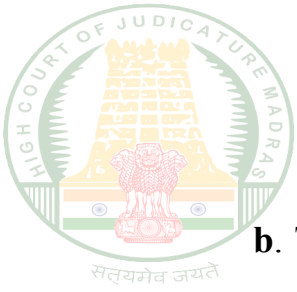
W.P.(MD)No.3260 of 2021

Village Panchayat Secretaries (Conditions of Service) Rules, 2013, were stayed

only insofar as the said petitioner alone is concerned and therefore, the petitioner cannot now contend that the Panchayat President is not a competent authority to dismiss the petitioner from service. She relied upon Sections 106 and 83 of the Tamil Nadu Panchayats Act, 1994, and would submit that since the Executing Authority is the Panchayat President, the Panchayat President is the competent authority to issue the impugned order dismissing the petitioner from service. She would submit that the Rules cannot override the statutory provisions, which enables the Panchayat President to issue order of such nature, which is impugned in this writ petition.

7. The learned counsel appearing for the sixth respondent also relies upon the following decisions in support of her contention that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, were never implemented.

a. The Division Bench judgment of this Court dated 23.08.2024 passed in ***W.A.(MD).No.1772 of 2023*** in the case of ***the State of Tamil Nadu, Represented by its Secretary, Rural and Development and Panchayat Raj Development, Secretariat, Chennai-9 and others Vs. Paloor Village Panchayat.***



W.P.(MD)No.3260 of 2021

b. The Division Bench judgment of this Court dated 02.07.2025 in ***W.A. (MD).No.412 of 2020*** in the case of ***the District Collector-cum-Inspector of Panchayat, Collectorate, Pudukkottai District and others Vs. S.I.Sumathi.***

8. Relying upon the aforesaid decisions, the learned counsel appearing for the sixth respondent would submit that it has been made clear in those decisions that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, were not at all implemented and therefore, the Personal Assistant to the Collector is not a competent authority to exercise the powers of the Executing Authority and the Executing Authority is only the Panchayat President as per the provisions of Section 106 r/w Sections 83 of the Tamil Nadu Panchayats Act, 1994.

9. The learned counsel appearing for the sixth respondent also relies upon the decision rendered by the learned Single Judge of this Court dated 28.10.2022 passed in ***W.P.(MD).No.9265 and 9305 of 2022*** in the case of ***M.Boominathan Vs. The Inspector of Panchayat, District Collector, Sivagangai District and Others*** and would submit that even though in the decisions rendered by the Division Bench of this Court, the modification order was not brought to its notice, but in the Single Bench decision dated



W.P.(MD)No.3260 of 2021

28.10.2022, referred to supra, the same was brought to its notice of the learned

Single Judge, who has held that the stay of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, granted in one of the writ petitions continues to hold the field. Therefore, she would submit that, it is only the Panchayat President, who is the competent authority to pass the order of the nature, which is impugned in this writ petition.

10. Section 83 of the Tamil Nadu Panchayats Act, 1994 empowers the Executing Authority to control all officers and the servants of the Village Panchayat and Section 106 of the said Act specifically empowers the Executing Authority to suspend, remove or dismiss any officer or servants of the Village Panchayat. The President is notified as the Executing Authority under Section 83 of the Tamil Nadu Panchayats Act, vide G.O.(Ms).No.225, Rural Development C1 Department, dated 15.10.1996.

11. The Rules cannot supersede or supplant the provisions of the Tamil Nadu Panchayats Act, 1994. The constitutional validity of 2013 Rules, which the petitioner relies upon, was put to challenge in various writ petitions and this Court vide its order dated 11.10.2013 in one of the writ petitions, had granted an order of interim stay of the operation of the said Rules. However, in view of



W.P.(MD)No.3260 of 2021

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the vacancies in the office of the Presidents of the Village Panchayats due to the non-conducting of elections to the local bodies, the interim order of stay has been modified so as to enable the Special Officers appointed in the place of Presidents of Village Panchayats to appoint servants / Secretaries to the Panchayats. Therefore, the order of interim stay already granted continues to hold good. That is the reason why the Division Bench of this Court vide its order dated 23.08.2024 passed in W.A.(MD).No.1772 of 2023, has held that the appointments made by the Panchayat Presidents would be protected. When the appointments made by the Panchayat Presidents have been protected, it is clear that the disciplinary actions taken by the Appointing Authority also stood protected. A stand has been taken by the learned counsel appearing for the petitioner that the modification interim order was not brought to the knowledge of the Division Bench. The said stand has to be rejected for the fact that the very writ appeal arose against the order of the learned Single Judge passed in W.M.P.(MD.No.18747 of 2020, wherein, the very same modification order was interpreted as having the effect of maintaining *status-quo* and such interim order of stay granted earlier would continue to hold good.

12. The said Government order has also come into operation in view of the interim stay granted by this Court and consequently, the said Rules have not

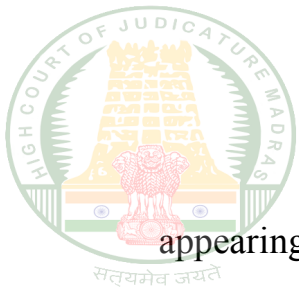


W.P.(MD)No.3260 of 2021

been implemented, as held by the Division Bench of this Court in its order dated 02.07.2025 passed in W.A.(MD).No.412 of 2020. Therefore, this Court is of the considered view that the contention of the petitioner that the President of the Panchayat has no jurisdiction and authority to impose the punishment of removal from service on the Panchayat Secretary (petitioner) herein as per the provisions of Rules 2013, has to be rejected.

13. As observed earlier, Rules 2013, cannot override and supplant the provisions of Section 106 of the Tamil Nadu Panchayats Act 1994. It is well settled principle of law that any Rule framed in excess of, or beyond, the Rule-making power conferred by the parent statute is ultra-vires and liable to be declared invalid.

14. The standard of proof required in criminal proceedings is different from the standard of proof required in the departmental proceedings. In criminal cases, the guilty of the accused should be proved beyond all reasonable doubt, whereas, in departmental proceedings, a mere preponderance of probabilities is sufficient to hold that the charges stand proved. The petitioner was also removed from service as early as on 27.01.2021, whereas, the enquiry report of the Vigilance Department relied upon by the learned Senior Counsel



W.P.(MD)No.3260 of 2021

appearing for the petitioner is only dated 31.03.2023, which is a subsequent document. Further, the vigilance enquiry mainly concentrated on the issue of receiving a bribe by the petitioner, and not on the issues related to misuse of his office as Panchayat Secretary by taking advantage of the vacancy in the post of Panchayat President. In the decision relied upon by the learned counsel appearing for the sixth respondent that in the case of *State Bank of Bikaner and Others Vs. Jaipur V.Nemi Chand Nalwaya* reported in *2011 (4) SCC 584*, it is made clear by the Hon'ble Supreme Court that if enquiry has been properly held and the findings are based on evidence, the question of adequacy of evidence or reliable nature of evidence will not be a ground for interfering in the findings of the Enquiry Officer, except when such findings are based on no evidence or when they are perverse.

15. In the case on hand, the petitioner had cross-examined the witnesses, but never chosen to examine any witnesses on his side. Only based on the preponderance of probability and based on the available evidence, the Enquiry Officer has come to the conclusion that the petitioner was found guilty of the charges framed against him in the disciplinary proceedings. Therefore, the aforesaid decisions relied upon by the learned counsel appearing for the sixth respondent squarely applies to the facts of the case and therefore, this Court cannot interfere with the findings rendered by the Enquiry Officer.



W.P.(MD)No.3260 of 2021

WEB COPY 16. The learned Senior Counsel appearing for the petitioner has also contended before this Court that since the petitioner's right to engage an Advocate in the departmental enquiry was rejected, it amounts to violation of the principles of natural justice. There is no Rule framed by the Panchayat which enables the petitioner to engage an Advocate. The findings in the decision relied upon by the learned Senior Counsel appearing for the petitioner in the case of *Chairman and Managing Director Hindustan Teleprinters Limited, Chennai Vs. M.Rajan Isaac* reported in (2005) 2 M.L.J. 119, it has been made clear that the General Rule is that in the absence of Rules, an employee has no right to seek for assistance of a Lawyer in the departmental enquiry. When there is no Rule which enables the petitioner to engage a Lawyer in the disciplinary proceedings and that too when the Department themselves have not engaged any Lawyer, this Court is of the considered view that the petitioner does not have any vested right to engage a Lawyer and therefore, the respondents have rightly rejected the petitioner's request to engage a Lawyer in the disciplinary proceedings. It is also to be noted that the petitioner has challenged the rejection order by filing a writ petition and the said writ petition also came to be closed and the petitioner, thereafter, proceeded to participate in the enquiry, which culminated in the passing of the impugned

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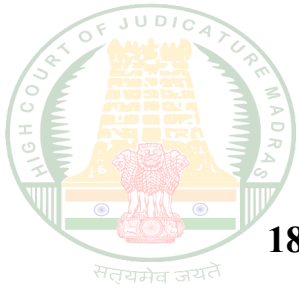
W.P.(MD)No.3260 of 2021

order by the Disciplinary Authority even in the decision relied upon by the

learned Senior Counsel appearing for the petitioner referred to supra reported in

(2005) 2 M.L.J. 119 only due to the fact that the Rules empowered the delinquents to engage a Lawyer and only on that ground the petitioner was allowed to engage a Lawyer in the disciplinary proceedings. When there is no Rule which empowers the petitioner to engage a Lawyer in the disciplinary proceedings and that too when the Department themselves have not engaged a Lawyer, the question of violation of the principles of natural justice does not arise even in the cases where the Enquiry Officer is an Advocate prosecuting before this Court. The decision relied upon by the learned counsel appearing for the sixth respondent in the case of **(D.G.Railway Protection Force and Others Vs. K.Raghuram Babu)** reported in **(2008) 4 SCC 406** also supports the contentions of the learned counsel appearing for the sixth respondent for refusal to grant representation through an agent does not violate the principles of natural justice.

17. The learned Additional Government Pleader appearing for the official respondents has also supported the contentions of the learned counsel appearing for the sixth respondent.



W.P.(MD)No.3260 of 2021

18. For the foregoing reasons, there is no merit in this writ petition and

the same stands dismissed. No costs. Consequently, connected miscellaneous petition is closed.

14.10.2025

NCC:yes/no

Index:yes/no

Internet:yes/no

TSG

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Assistant Director of Rural Development (Panchayat),
Virudhunagar District, Virudhunagar.
- 3.The Personal Assistant (Development) to the Collector,
Virudhunagar District, Virudhunagar
- 4.The Block Development Officer (Village Panchayat),
Sivakasi Union,
Virudhunagar District
- 5.The President,
Sithurajapuram Gr-I Village Panchayat,
Sivakasi Panchayat Union,
Virudhunagar District.



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W.P.(MD)No.3260 of 2021

ABDUL QUDDHOSE, J.

TSG

W.P.(MD)No.3260 of 2021

14.10.2025