



W.A(MD)No.567 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 13.08.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

**W.A(MD)No.567 of 2020
and
C.M.P(MD)No.3822 of 2020**

Amirthavalli

... Appellant /
5th Respondent

Vs.

1.K.Indhirani

... Respondent /
Petitioner

2.The District Collector,
Ramanathapuram District,
Ramanathapuram.

3.The Assistant Director (Panchayat),
Ramanathapuram District,
Ramanathapuram.

4.The President,
Keelaparuthiyur,
Paramakudi Union,
Ramanathapuram District.

5.K.Sivasakthi

... Respondents /
Respondents



W.A(MD)No.567 of 2020

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to call for the entire records pertaining to the order passed by this Court in W.P(MD)No.1191 of 2013 vide order dated 10.02.2020 and set aside the same.

For Appellant : Mr.R.Anand

For Respondents : Mr.Mohamed Zamil
for M/s.Ajmal Associates
for R.1

Mr.C.Venkatesh Kumar
Special Government Pleader
for R.2 & R.3

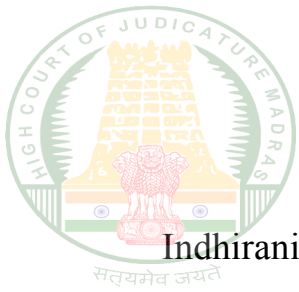
Mr.P.T.Ramesh Raja
for R.4

JUDGMENT

(Judgment of the Court was made by **G.R.Swaminathan J.**)

Heard both sides.

2.The writ petitioner Ms.Indhirani was appointed as Secretary of Keela Paruthiur Panchayat, Paramakudi Union, Ramanathapuram District on 01.07.2006. Her appointment is based on the resolution dated 10.05.2006. She was orally terminated on 15.11.2006. Challenging her oral termination,



W.A(MD)No.567 of 2020

Indhirani filed W.P(MD)No.5849 of 2007. The said writ petition was allowed

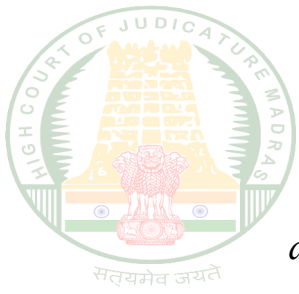
WEB COPY vide order dated 30.08.2010 in the following terms:

“19. As discussed in the foregoing paragraphs, the impugned order of dismissal passed without formulation of necessary charges and conducting an enquiry and without providing an opportunity of being heard, amounts to violation of principles of natural justice and therefore, the impugned order is liable to be set aside and accordingly set aside.

20. However, liberty is given to the third respondent to take a decision as to whether the petitioner should be proceeded with any departmental enquiry, at this length of time and if any decision is taken, sufficient opportunity should be given, to the writ petitioner, including an opportunity of being heard before any order of penalty is imposed.”

3.Contending that this direction was not complied with, Indhirani filed Cont P(MD)No.484 of 2012. The said contempt petition was dismissed vide order dated 24.09.2012 in the following terms:

“7.Typed-set of papers, filed by Smt.K.Sivasakshi, President, Keela Paruthiyur Panchayat, Paramakudi Union, Ramanathapuram, shows that two letters, dated 18.12.2010 and 28.02.2011, have been sent by T.Nageshwari, the erstwhile president of the above said panchayat, to the writ petitioner, wherein specific charges have been framed and that the petitioner was called upon to explain within 15 days from the



WEB COPY



W.A(MD)No.567 of 2020

date of receipt of the above said letters. At Page No.10 of the typed-set of papers, xerox copies of postal receipts, dated 13.12.2010 and 28.02.2011, have been enclosed, evidencing that letters have been sent from Keelaparuthiyur panchayat to the petitioner. Though the petitioner has contended that she has not received any charge memorandum and the cover contained only a copy of the order made in W.P(MD)No.5849 of 2007, dated 30.08.2010, it is the case of the alleged contemnor that the erstwhile president herself has formulated specific charges and called upon the petitioner to submit the explanation.

8.The dispute as to whether the postal covers, sent on 18.12.2010 and 26.12.2012, contained charge memorandum of the postal covers contained only a copy of the order made in W.P(MD)No.5849 of 2007, dated 30.08.2010, cannot be adjudicated in this contempt petition. What is to be considered in contempt proceedings is whether there was any willful and deliberate intention on the part of the respondent against whom an order has been passed, in not complying with the directions and whether such act is contumacious, attracting the provisions of the Contempt of Courts Act.

9.In the case on hand, there is no positive direction to reinstate the petitioner in service. Earlier, when the petitioner sought for a mandamus, directing the then president, Keelaparuthiyur Panchayat, Paramakudi Union, Ramanathapuram District, to reinstate her in service, this



W.A(MD)No.567 of 2020

WEB COPY

Court has only directed the respondent therein, to take a decision as to whether the petitioner should be proceed with departmentally, after a considerable length of time and if any decision was taken, an opportunity should be given to the petitioner, before passing an order of penalty. Now it is stated that the writ petitioner did not avail the opportunity should be given to the petitioner, before passing an order of penalty. Now it is stated that the writ petitioner did not avail the opportunity given to her to submit her explanation on the charges framed and consequently, the order of termination has been sustained. ”

4.In fact, what triggered the institution of the contempt proceedings was the following undated communication from the panchayat president. It reads as follows:

“சென்னை உயர்நீதிமன்ற மதுரை கிளை WP/5849/07ல் வழங்கிய தீர்ப்பின் அடிப்படையில் நீதிமன்ற உத்தரவுக்கு கீழ்படிந்து மீளவும் 18.12.10 மற்றும் 28.2.11ல் தங்களிடம் விளக்கம் கோரி மீளவும் பதிவுத்தபாலில் கடிதம் அனுப்பப்பட்டது. இதற்கும் தாங்கள் பதில் அல்லது விளக்கம் அளிக்கத் தவறியதுடன் தாங்களுக்கு பணி செய்ய விருப்பம் இல்லை என கருதி தங்களுக்கு வழங்கப்பட்ட பணி நீக்க உத்தரவினை ஊர்சிதம் செய்யப்படுகிறது என இறுதியாக தெரிவிக்கப்படுகிறது.”

5.Impugning the said undated communication, Indhirani filed W.P(MD)No.1191 of 2013. The said writ petition was allowed vide order dated 10.02.2020 in the following terms:



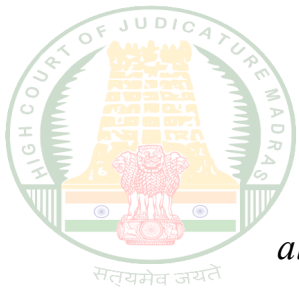
W.A(MD)No.567 of 2020

WEB COPY

“6. A perusal of the record shows that in the earlier round of litigation, the termination order passed earlier was set aside and the third respondent was directed to consider the case of the petitioner for reinstatement in the light of Vallalar Gurugulam Higher Secondary School case, cited supra, and given liberty to initiate disciplinary proceedings against the petitioner.

7. According to the 3rd respondent, based on the said order, the charge memo dated 18.12.2010 has been issued to the petitioner alleging eight charges against the petitioner and as the petitioner had not given any reply within 15 days time, on 28.02.2011 once again the very same charge memo has been issued to the petitioner. After receipt of those memos, the petitioner did not give any reply and hence, the termination order has been passed. According to the petitioner, she did not receive any such notices from the third respondent and she had received only a copy of the order made in the earlier writ petitions. Admittedly, the respondents did not file any counter affidavit. They have also not produced any document in order to substantiate their contentions that the charge memos dated 18.12.2010 and 28.02.2011 had been served to the petitioner, though it is stated to be produced before the Court of contempt.

8. In the charge memos dated 18.12.2010 and 28.02.2011, nearly about eight charges have been framed against the petitioner. As per the charges, the petitioner is

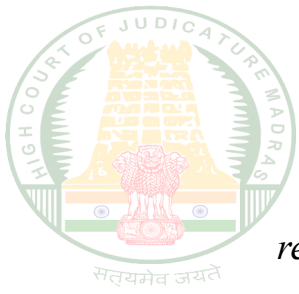


W.A(MD)No.567 of 2020

WEB COPY

alleged to have been not handed over the original documents of the panchayat ie., the resolution passed for her appointment; her original appointment order; Confirmation order of the District Collector in respect of her appointment; Accounts and Bill books relating to the years 2001-2006; and Resolution Note and other documents. It is also alleged that the petitioner had unauthorisedly absented from attending duty from 25.10.2006 and that she has not given any reply to the notices 06.11.2006 and 10.11.2006.

9. Admittedly, the petitioner was appointed only on 01.07.2006. Though very serious allegations have been raised by the third respondent in the charge memos against the petitioner, according to the petitioner, no criminal action had been taken against the petitioner for such withholding of documents. It gives an impression that only in order to harass the petitioner, such allegations have been raised and there is no truth in it. More over, no enquiry has been conducted by the third respondent. In the impugned order, the third respondent did not state as to whether an enquiry officer has been appointed or not and as to whether the charges are proved or not. Merely because no reply has been given by the petitioner, she cannot be terminated. The third respondent has to follow the procedure contemplated under law. As the third respondent has failed to follow the procedure and as the petitioner has been repeatedly denied employment evading the procedure, this Court is inclined to set aside the impugned order and to



W.A(MD)No.567 of 2020

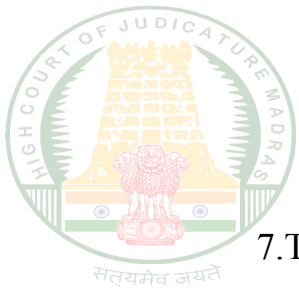
reinstate the petitioner in service with service and monetary benefits.

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10. In view of the above, the impugned order passed by the third respondent is set aside and the respondents 1 to 3 are directed to reinstate the petitioner in service with all service and monetary benefits within a period of twelve weeks from the date of receipt of a copy of this order.”

Aggrieved by the same, the appellant who was appointed in the place of Indhirani has filed this appeal.

6.The question that calls for consideration is whether the order of the learned single Judge warrants interference. It is relevant to note that at the very outset that the appointment of Indhirani was prior to issuance of G.O(Ms)No. 175 Rural Development and Panchayats Department dated 05.12.2006. Even in the said GO, what is contemplated is only a summary enquiry. It is true that originally, Indhirani was unceremoniously sacked. But following the direction given by this Court in W.P(MD)No.5849 of 2007, the Panchayat President claims that she did send two communication enclosing the set of allegations made against Indhirani. The stand of Indhirani in the present round of writ petition is that both the postal covers sent by the Panchayat President did not contain any charge memo or show cause notice but that they contained only copy of the order passed by this Court in W.P(MD)No.5849 of 2007.



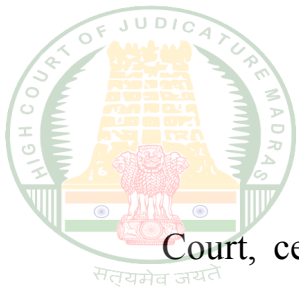
W.A(MD)No.567 of 2020

7.The learned single Judge in paragraph 7 of the order had held that no document was produced to substantiate the claim that charge memos were despatched to the writ petitioner on 18.12.2010 and 28.02.2011.

8.We are clearly of the view that this reason may not really be sound. Paragraph 4 of the counter affidavit filed by Sivasakthi, Ex President reads as follows:

“4. It is submitted that paragraph no.3, 4 & 5 generally correct to the extent that the petitioner was working for a short period of few months from 01.07.2006 to 25.10.2006. Further, the allegation of her victimization and termination of her services for personal enmity between the new president and erstwhile president of 3rd respondent is denied and the termination was lawful one except the defects indicated in the common order passed in WP(MD)No.2644 & 5849 of 2007. Moreover, the petitioner in her affidavit stated that she sent representation to the 2nd respondent; I am not supposed to comment for not taking any action by the 2nd respondent.”

9.The claim of the panchayat president is that communications were sent on 18.12.2010 and 28.02.2011. The dispute is not regarding the receipt of the communication. The dispute is only as regards the contents of the postal covers. If really the postal cover contained only the earlier writ order of this



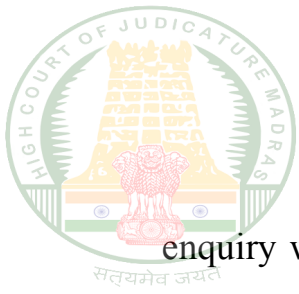
W.A(MD)No.567 of 2020

Court, certainly Indhirani would have responded then and there. She would

have sent a written communication to the panchayat president as to why copy of the order is being sent to her. In fact she chose to remain silent. Only on 24.05.2011, in the legal notice, a stand was taken by her for the first time that the postal cover contained the representation already sent by her.

10. In view of the silence on the part of Indhirani till May, 2011, we infer that this is clearly an after thought. There is a maxim “Omnia praesumuntor rite esse acta” that “all things are presumed to have been done rightly”. The Court is entitled to draw a presumption under Section 114 of the Evidence Act, 1872. The onus lies not on the panchayat president but on the writ petitioner to rebut the same. We hold that the onus cast on the writ petitioner was not at all discharged by her.

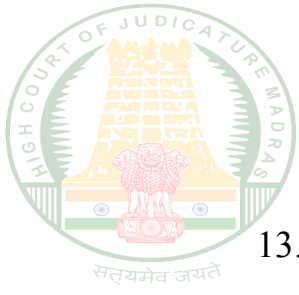
11. The learned single Judge had held that an enquiry officer must have been appointed and a proper enquiry must have been held and since such a procedure was not followed, Indhirani has to be reinstated. During the relevant time, there was no such procedure. What was envisaged was only issuance of formal show cause notice and after getting the response of the delinquent, an order could be passed. Only subsequently, the requirement of holding personal



W.A(MD)No.567 of 2020

enquiry was introduced. In the case on hand the writ petitioner did not even respond. Therefore, the panchayat president was left with no other option but to proceed further in the matter.

12.In fact we would rest our order on a different ground altogether. Thiru.Kathiravan husband of the writ petitioner was working as part time panchayat clerk. He was relived from service on 30.06.2006. In his place his wife Indhirani was straighaway appointed by passing a resolution. No procedure appears to have been adopted before appointing Indhirani. We are convinced that Indhirani's entry was through back door. Therefore, if she is sent through the back door, we will not shed tears. That apart, Indhirani was terminated on 15.11.2006 itself. Her tenure was less than 3 ½ months. Even during this period she does not appear to have discharged her duties. Moreover the appointment was only as part time clerk. In her place the appellant herein was subsequently appointed. In these circumstances, directing reinstatement of the writ petitioner with all service and monetary benefits does not appear to be in order. The appellant / incumbent has been holding the post for more than 19 years. It would be inequitable and unjust to disturb her position at this distance of time. The order passed by the learned single Judge is set aside.



W.A(MD)No.567 of 2020

13.This Writ Appeal is allowed accordingly. There shall be no order as to

costs. Consequently, connected miscellaneous petition is closed.

[G.R.S., J.] [K.R.S., J.]
13.08.2025

NCC : Yes / No
Internet : Yes / No
Index : Yes / No
MGA

To

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Assistant Director (Panchayat),
Ramanathapuram District,
Ramanathapuram.
- 3.The President,
Keelaparuthiyur,
Paramakudi Union,
Ramanathapuram District.



WEB COPY



W.A(MD)No.567 of 2020

G.R.SWAMINATHAN, J

and

K.RAJASEKAR, J.

MGA

W.A(MD)No.567 of 2020

13.08.2025