



W.P.(MD)No.17162 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 18.11.2025

CORAM:

THE HON'BLE MS.JUSTICE P.T.ASHA

W.P.(MD).No.17162 of 2018

and

W.M.P(MD)Nos.15092 & 20199 of 2018 and 5245 of 2024

Perpeti Terence Leon

S/o Leon Alexander

... Petitioner

Vs.

1. Tamil Nadu Local Bodies Ombudsman,
No.100, Anna Salai,
Chennai - 600 032.

2. The Director Of Town Panchayat,
Kuralagam, Chennai - 600 018.

3. The Assistant Director Of Town Panchayat,
Nagercoil Division,
District Collectors Office,
Kanyakumari District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the Impugned Notice in Appeal No.468/2016/P-1, dated 28.06.18 on the file of the 1st respondent and the consequent Impugned Order in Appeal No.468/2016/P-1, dated 10.07.18 on the file of the 1st respondent and quash the same.



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For Petitioner : Mr.G.Prabhu Rajadurai
For R1 : Mr.Shanmuganatha Sethupathy
For R2 & R3 : Mr.N.Shanmugavelan
Additional Government Pleader

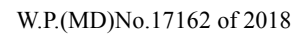
ORDER

The above writ petition has been filed for the following relief:-

“Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, calling for the records relating to the Impugned Notice in Appeal No. 468/2016/P-1, dated 28.06.18 on the file of the 1st respondent and the consequent Impugned Order in Appeal No.468/2016/P-1, dated 10.07.18 on the file of the 1st respondent and quash the same. ”

2. The facts as set out in the affidavit filed in support of the writ petition reads as under:-

The petitioner had joined the respondent Department as a Junior Assistant on 02.02.1995 at Nollivilai Town Panchayat. He was promoted as an Executive Officer on 05.01.2005 and thereafter he was promoted as an Executive Officer Grade I on 12.04.2007 and posted in Kothanallur Town Panchayat. He was subsequently promoted as an Executive Officer Selection Grade on 19.06.2007 and posted in Pudhukottai Town Panchayat, where he continues to work on the date of filing of the writ petition.



4. The petitioner would submit that acting upon the resolution, he had proceeded to construct a building at a sum of Rs.4,00,000/-. It appears that an anonymous complaint has filed against the President of the Town Panchayat to the Chief Minister Cell on 2012. Several allegations were made against the said person and one of the complaint related to the construction of bathing ghat by stating that the tank was not situated within Aloor Town Panchayat but in Kattimangodu Town Panchayat. The complaint was thereafter referred to the 1st respondent who had taken it on file and the enquiry was dropped in respect of the president.



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5. It appears that pending the enquiry, the present Enquiry Officer had given a written explanation to the allegations in which he had stated that the bathing ghat was lying in the border of the Aloor Town Panchayat and was situated in Kattimangodu Town Panchayat. But the explanation would also state that the said bathing ghat was being used exclusively by the residents of Aloor Town Panchayat. Thereafter, the Executive Officer had attended the enquiry and made a oral statement on 19.05.2017 stating that the bathing ghat was constructed in Kattimangodu Town Panchayat at the border of Aloor Panchayat. However, money was spent from the Aloor Town Panchayat and that the petitioner as an Executive Officer had not taken the permission of the District Collector to carry out the work in the space situated outside the Town Panchayat.

6. The 1st respondent recorded the statement and passed the order dated 10.07.2018 stating that the petitioner has caused a loss of Rs.4,00,000/- to the Aloor Town Panchayat and directed departmental action to be initiated against the petitioner and the 2nd respondent was directed to submit a report within a period of three months.



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7. The petitioner would submit that he had been served summons dated 28.06.2018 from the 1st respondent asking him to appear on 03.09.2018 and to submit his explanation. This order was served on the petitioner on 08.07.2018. Meanwhile, the order dated 10.07.2018 was also served on the petitioner on 25.07.2018. Therefore, the petitioner was unable to submit his explanation.

8. The petitioner would submit that the construction of the bathing ghat had been completed as early as in 2012 and the complaint had been made only in the year 2017 which is nearly five years from the date of the resolution. Further, there were no monetary loss, as the residents of the panchayat were also enjoying the bathing ghat additionally.

9. That apart, the petitioner would submit that there has been no complaint of misappropriation or irregularity made out against the petitioner.



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10. The learned counsel appearing for the respondents 2 and 3 have filed an application along with vacate stay petition, in which it was submitted that the funds of Aloor Town Panchayat had been used to renovate the bathing ghat which is situated in the jurisdiction of Kattimangodu Town Panchayat.

11. The respondents 2 and 3 would further submit that on conducting an enquiry in respect of the complaint by one Mahavishnu, except for the renovation of the bathing ghat all other allegations made against the president was found to be false. Therefore, the 1st respondent has proceeded to conduct an enquiry with reference to the allegation of renovation of the bathing ghat.

12. In the counter the respondents have fairly admitted that the Executive Officer has given two different versions regarding the renovation of the Padithurai. Originally it was stated that the Padithurai was situated in Aloor Town Panchayat and later it was changed to state that it is in Kattimangodu Town Panchayat. In the second explanation it



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has been clearly admitted that the permission of the District Collector has not been sought for by the Executive Officer to use the fund of Aloor Town Panchayat for putting up bathing ghat at Kattimangodu Town Panchayat and by the impugned order, the respondent 2 and 3 has been directed to initiate departmental action against the petitioner.

13. It is their contention that even assuming that a resolution has been passed as an Executive Officer of the Panchayat, the petitioner ought to have verified as to whether the said bathing ghat is situated within Aloor Town Panchayat. Without doing so, the petitioner has exceeded his jurisdiction.

14. One of the statement made by the petitioner in the writ petition is that the summons dated 28.06.2018 had directed the petitioner to be present on 03.09.2018 at 03.00 pm for enquiry. This summons itself has been received by the petitioner only on 08.07.2018. Though, the petitioner has been called for an enquiry on 03.09.2018, the impugned order has been passed on 10.07.2013 that is nearly 3 months prior to the date of enquiry. Therefore, without going into the correctness of otherwise of the



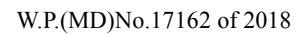
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order it is clear that the order is a pre-determined one and the enquiry is only an eyewash.

15. Though the petitioner had made a specific reference to this in paragraph 7 in the affidavit in support of the writ petition, this Statement has not been controverted by the respondents in their counter affidavit. Therefore, from a perusal of the summons dated 28.06.2013 and the silence regarding the same in the counter affidavit, it is seen that the order has been passed even before the date of enquiry. Therefore, the order in question cannot be sustained and accordingly, the impugned order dated 28.06.2018 is set aside.

16. It is also seen that though the allegations have been primarily made against the President of the Panchayat, all allegations against the president has been dropped and it is only the petitioner who is an Executive Officer against whom enquiry has been initiated.



Accordingly, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petitions are closed.

18.11.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm

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