



W.A.(MD) No.412 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2025

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE**

**W.A.(MD) No.412 of 2020
and
C.M.P.(MD) No.2811 of 2020**

- 1.The District Collector-cum-Inspector
of Panchayat,
Collectorate, Pudukottai District.
- 2.The Block Development Officer
(Village Panchayat),
Kundrandarkovil, Kulathur Taluk,
Pudukottai District.
- 3.The President,
Killukulavaipatty Panchayat,
Kundrandarkovil Panchayat Union,
Kulathur Taluk, Pudukottai District. ... Appellants/Respondents

Vs.

S.I.Sumathi ... Respondent/Writ Petitioner

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order dated 14.10.2019 made in W.P.(MD) No.5995 of 2014 on the file of this Court.



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For Appellants : Mr.M.Ajmalkhan
Additional Advocate General
assisted by Mr.S.P.Maharajan
Special Government Pleader

For Respondent : Ms.A.Arul Jenifer
for M/s.KBS Law Office

JUDGMENT

[Judgment of the Court was delivered by S.M.SUBRAMANIAM, J.]

The present intra-court appeal has been instituted assailing the order dated 14.10.2019 passed in W.P.(MD).No.5995 of 2014.

2. The first respondent filed the writ petition challenging the order of termination and to reinstate her into service to the post of Panchayat Assistant. The respondent was appointed as Panchayat Assistant in Killukulavaipatti Panchayat. Disciplinary proceeding was initiated against her and a charge-memo has been issued. The charges are relating to misappropriation of funds of the Panchayat. Enquiry Officer was appointed, who in turn, found that the charges are proved. Finally, the Disciplinary Authority imposed the punishment of removal from service.

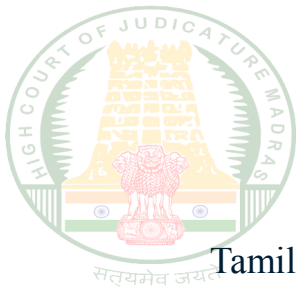


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3. The main ground raised by the respondent before the writ Court was that the President of the Panchayat has no jurisdiction or Authority to issue the order of punishment removing the respondent from service, in view of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 issued in G.O(Ms).No.72, Rural Development and Panchayat Raj (E5) Department, dated 09.07.2013. The Writ Court on the said ground, allowed the writ petition. Thus, the appeal came to be instituted.

4. The learned Additional Advocate General appearing for the appellants would contend that G.O.(Ms.).No.72, dated 09.07.2013 had been stayed by this Court in a batch of writ petitions. It became non-operational and the pre-existed Rules prevailed and was followed for initiation of disciplinary proceedings and imposition of penalty to the employees of Panchayat. Since the stay was operating for a longer period, the said Rules was not at all implemented and the writ petitions were disposed of. By that time, the 2013 Rules was superseded and G.O(Ms).No.113, Rural Development and Panchayat Raj (E5) Department, dated 13.09.2023 was issued framing new Rules namely



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Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2023. Therefore, the 2013 Rules was not at all implemented and therefore, the PA to Collector has not exercised his powers as an Executive Authority under the 2013 Rules.

5. Alternatively, the learned Additional Advocate General would contend that the 2013 Rules cannot supersede or supplant the provisions of the Tamil Nadu Panchayats Act, 1994 (hereinafter referred to as “the Act”). The Act contemplates Executive Officer of Village Panchayat to impose penalty. Section 106 of the Act provides “power to punish officers and servants”. The Executive Authority of a Village Panchayat is the President and necessary notification under Section 83 of the Act was issued by the Government of Tamil Nadu in G.O(Ms).No.225, Rural Development (C1) Department, dated 15.10.1996. The said notification is in force and therefore, the Rule even if implemented, it will run counter to the provisions of the Act and therefore, the powers exercised by the President are in accordance with the provisions of the Act and thus, the writ appeal is to be considered.



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6. The learned counsel for the respondent would oppose by stating that stay of 2013 Rules was granted after passing of the impugned order and therefore, as on the date of the passing of the impugned order, PA to Collector or the Executive Authority has power to impose penalty. Thus, the Writ Court is right in allowing the writ petition. Even on merits, the Enquiry has not been conducted properly. Different enquires are conducted and thus, on that ground also, the respondent may be provided an opportunity.

7. Heard the learned counsel on either side.

8. Section 106 of the Act defines “powers to punish officers and servants”. Accordingly, the Executive Authority is empowered to exercise the disciplinary powers against the Panchayat Assistant. “Executive Authority of Village Panchayat” has been defined under Section 83 of the Act. The Government, may, by notification, appoint any person, who shall, subject to such rules as may be prescribed, exercise the powers and perform the functions of the Executive Authority of a Village Panchayat.



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9. The Government in exercise of powers conferred by Section 83 of the Act, issued G.O(Ms).No.225, Rural Development (C1) Department, dated 15.10.1996. The notification reads as under:-

“Notification

In exercise of the powers conferred by Section 83 of the Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994), the Governor of Tamil Nadu hereby appoints the President of Village Panchayat, as Executive Authority to exercise the power and perform the functions of the Executive Authority of that Village Panchayat.”

10. The notification has been considered by the learned Single Judge of this Court in the case of ***P.Rajendran vs. District Collector*** reported in ***(2007) 6 MLJ 1314***. Therefore, it is made clear that under the provisions of Section 106 read with Section 83 of the Act, the Panchayat President is empowered to initiate disciplinary proceedings against the Panchayat Assistant re-designated as Panchayat Secretary and further, the 2013 Rules was not all implemented, even if there is an interregnum period between passing of the order and grant of stay by the High Court. Still the Act will prevail over and any rule issued under the

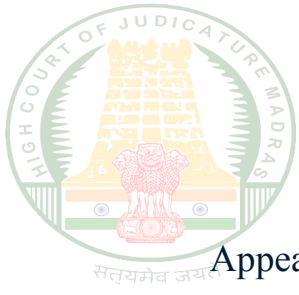


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Act cannot supplant the provisions of the Act and thus, the provisions of the Act is to be taken into consideration for the purpose of deciding the issue as to whether the Panchayat President is having powers to initiate disciplinary proceedings against the Panchayat Assistant/Panchayat Secretary. Since, the Act itself provides powers to the President to initiate disciplinary proceedings against the staff of Panchayat, any reference made to the Rules became unnecessary and the Act will prevail over the Rules. More so, the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 was superseded and for all these reasons, this Court is of the considered opinion that the Writ Court has failed to consider the provisions of the Act, but relied on the Rules and granted interim stay in the batch of writ petitions. When the Act is unambiguous and confers power to the President to impose penalty by initiating disciplinary proceedings, there is no further reason to refer to the 2013 Rules which is running counter to Section 106 and Section 83 of the Act.

11. In view of the above facts and circumstances, the order dated 14.10.2019 in W.P(MD) No.5995 of 2014 is set aside and the Writ



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Appeal stands allowed. There shall be no order as to costs.

Consequently, connected miscellaneous petition is closed.

[S.M.S., J.] [A.D.M.C., J.]
02.07.2025

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

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To

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of Panchayat,
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