

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:31.7.2006

CORAM

THE HON'BLE MR.JUSTICE V. DHANAPALAN

WRIT PETITION No.18369 of 2004 and
W.P.M.P.No.21873 of 2004

G.Rengarasu

.... Petitioner

VS

The President,
Vaithur Panchayat
Kulathoor Taluk,
Pudukottai District.

.... Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a Writ of Certiorari for the relief as stated therein.

For petitioner : Mr.V.Raghavachari
For respondent : Mr.R.Kanniappan

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The prayer in this writ petition is to issue a writ of certiorari to call for the records on the file of the respondent in proceedings nil dated 22.6.2004 and to quash the same as illegal, incompetent and without jurisdiction.

3. According to the learned counsel for the petitioner, the petitioner has been appointed as a part time writer by the Commissioner of Panchayat Union, Kundrandarkoil in his proceedings Na.Ka.No.A3/5873/96, dated 07.08.1997. In the said proceedings, his name has been found in S.No.9 and he has passed S.S.L.C and his date of appointment is 01.5.1997 and his date of birth is 04.6.1971 and appointed as part-time writer in Vaithur Panchayat. Since then, he was working in the said office on regular basis as part-time writer. He had no remarks in his service records. While he was on duty, he was called upon to make entries for which there were no vouchers and he had objected to such a move and he found the presence of respondent's husband humiliating and overbearing. He brought the misconduct of the respondent to the knowledge of the Panchayat Union and an enquiry was conducted. Aggrieved by this action of the

petitioner, the respondent issued a show cause notice, dated 27.4.2004, calling for explanation from the petitioner for certain allegations for which the petitioner had submitted his explanation which is enclosed in 4 to 7 of the typed set of papers. On receipt of complaint from the petitioner about the acts of the respondent, the Regional Development Officer issued a notification dated 07.6.2004 bearing Na.Ka.No.T3/1693/2004, directing the respondent to submit the accounts book and account for the cheques and she was also called upon to appear on 10.6.2004 at 11.00 a.m. She increased the harassment by manifolds knowing that the petitioner had reported the mishandling of public funds by her to the higher officials. Without following any procedure contemplated, she has issued a termination order on 22.6.2004. Aggrieved by the termination order, the petitioner has approached this Court.

4. Learned counsel for the petitioner has contended that under Section 83 of the Tamil Nadu Panchayats Act, 1994, the powers and duties of the executive authority has been defined and the executive authority of the Village Panchayat is the President who shall, subject to such rules as may be prescribed, exercise the powers and perform the functions of the executive authority of the Village Panchayat which includes the resolution in respect of his actions.

5. It is the further contention of the counsel for the petitioner that this provision has been invoked by the respondent before terminating the services of the petitioner and in any event no procedure has been followed in passing the termination order and in such circumstances the entire proceedings is vitiated by the improper action of the respondent and therefore, the impugned order has to be set aside.

6. Mr.Kanniappan, learned Government Advocate for the respondent has contended that there was an enquiry and he has shown the proceedings of resolution copy of the Panchayat Board wherein the notice was sent to the petitioner on 01.5.2005. But no reply was received by them. But it is the strong case of the petitioner that a detailed reply was submitted to the respondent. A copy of the same is enclosed in the typed set of papers which is not rebutted by the respondent while filing the counter.

7. Therefore, in the absence of any material to show that the procedure contemplated under the Tamil Nadu Panchayats Act or any other rule has been followed before terminating the petitioner from service, there is no other option except to set aside the order of the respondent. Accordingly, the termination order is set aside. However, it is open to the respondent to proceed further after giving due opportunity and following the procedure contemplated under the law.

With the above observation, the writ petition is allowed. No costs. Consequently, connected WPMP is closed.

kua

Sd/-
Asst. Registrar

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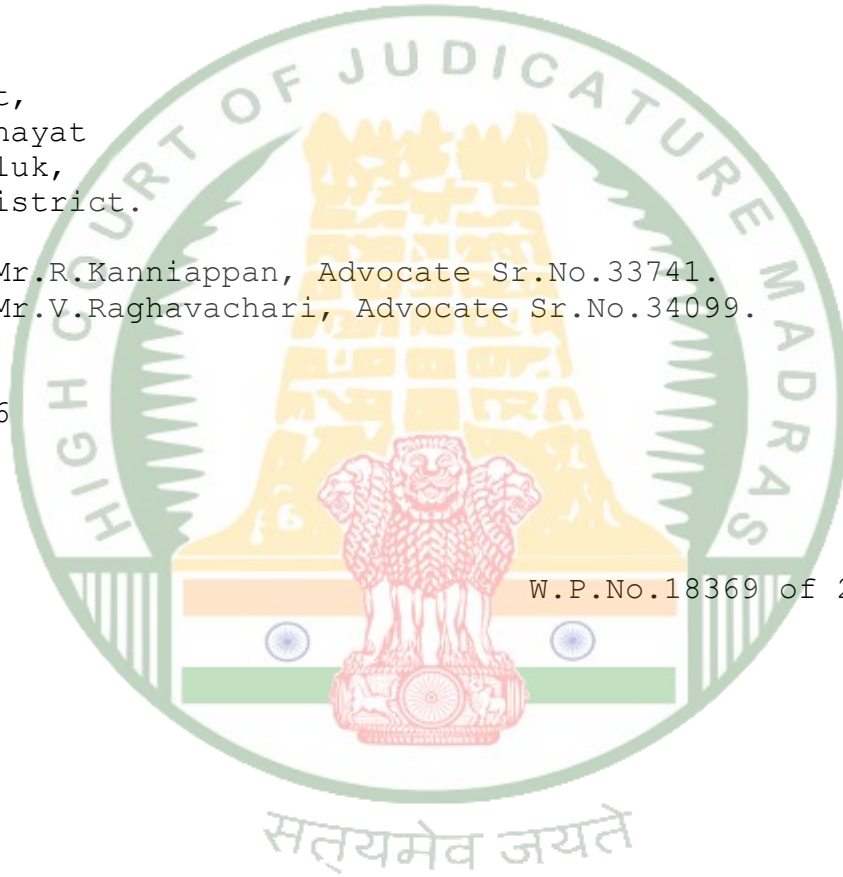
Sub Asst.Registrar

To

The President,
Vaithur Panchayat
Kulathoor Taluk,
Pudukottai District.

+ one cc to Mr.R.Kanniappan, Advocate Sr.No.33741.
+ one cc to Mr.V.Raghavachari, Advocate Sr.No.34099.

NG (CO)
RSM/20.9.2006



W.P.No.18369 of 2004

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