

Madras High Court

P.Mahendran vs The District Collector/ on 23 March, 2011

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date:23.3.2011

CORAM

THE HONOURABLE MR. JUSTICE R.SUDHAKAR

Writ Petition No.7415 of 2011

and

W.P.No.1 of 2011

P.Mahendran,
Vice-President,
Naickenpalayam Panchayat,
Periyanaickenpalayam Panchayat Union,
Coimbatore District.

... Petitioner

vs.

1.The District Collector/
Inspector of Panchayat,
Coimbatore District,
Coimbatore.

2.The Tahsildar,
Taluk Office,
Coimbatore North,
Coimbatore.

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India praying to issue

For Petitioner : Mr.P.Saravana Sowmiyan

For Respondents : Mr.S.Shivashanmugam,
Government Advocate.

O R D E R

Writ Petition is filed praying to issue a Writ of Certiorari, calling for the records of the first respondent by proceedings in NAKA No.3992/2009/A3 dated 3.3.2011 and quash the same.

2. Mr.S.Shivashanmugam, learned Government Advocate, takes notice on behalf of the respondents. By consent of both the parties, the writ petition is taken up for final disposal.

3. In view of the First Bench Decision of this Court in the District Collector -cum- Inspector of Panchayat vs. - S.Senthamizh Selvi (DB) reported in 2009(1) CTC 356 and the direction issued in para 6, the petitioner is at liberty to exhaust the remedy available under Section 205(12) of the Tamil Nadu Panchayat Act. Para 6 of the decision reads as follows:-

"6. However, against the order which has been passed by the Inspector, the person aggrieved has the right to approach the Government under Section 205(12) of the said Act. The said provision is extracted hereinbelow:-

"(12) The Government shall have power to cancel any notification issued under sub-section (11) and may, pending a decision on such cancellation, postpone the date specified in such notification."

The said provision has not been exhausted before filing the Writ Petition. We, therefore, give liberty to the writ petitioner, the first respondent herein, to exhaust the said remedy, if she is so advised, within a fortnight from today. If the first respondent approaches the Government within the period stipulated above, the Government may pass appropriate orders within a period of six weeks from the date of working of the said remedy. We do not make any observation on the merits of the case of the first respondent. The Writ Appeal is accordingly allowed. The impugned order of the learned Single Judge is set aside. No costs. Consequently M.P.No.1 of 2008 is closed."

4. In view of the above decision, the petitioner is at liberty to make an appeal to the appropriate authority/the Government in terms of Section 205(12) of the Tamil Nadu Panchayat Act together with application for stay, if he so desires. On receipt of the appeal and stay petition, if any filed, along with a copy of this order, the Government shall consider and dispose of the same expeditiously, preferably within a period of one week thereafter. It is made clear that this Court has not expressed its views on merits of the petitioner's claim.

5. The Writ Petition is disposed of as above. No costs. Consequently, co

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To

1.The District Collector/
Inspector of Panchayat,
Coimbatore District,
Coimbatore.

2.The Tahsildar,
Taluk Office,
Coimbatore North,
Coimbatore