

indumathi Vs. the President

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Court : Chennai

Decided On : Apr-02-2013

Judge : D.Hariparanthaman

Appellant : indumathi

Respondent : The President

Judgement :

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT DATED:

02. 04/2013 CORAM THE HONOURABLE MR.JUSTICE D.HARIPARANTHAMAN
W.P.(MD)No.5007 of 2013 and M.P.(MD)No.1 of 2013 Indumathi ... Petitioner Vs.
The President K.Rayavaram Village Panchayat, Thirumayam Taluk, Pudukkottai
District. ... Respondent Prayer Writ Petition filed under Article 226 of the
Constitution of India praying to issue Writ of Mandamus, to call for the records in
respect of suspension order dated 22.03.2013 passed by the respondent and
quash the same as illegal and arbitrary and consequently direct the respondent to
allow the petitioner to work as Village Panchayat Assistant of K.Rayavaram
Panchayat, with all monetary benefits. !For Petitioner ... Mr.K.Baalasundharam
^for Respondents ... Mr.T.R.Janarthanan, A.G.P. :ORDER The petitioner is a
Vilage Panchayat Assistant in K.Rayavaram village panchayat at Thirumayam
Taluk in Pudukottai District. He placed under suspension by the respondent by the
impugned order dated 22.03.2013. The petitioner has questioned the same in this
writ petition. 2.Heard the learned counsel for the petitioner. 3.The learned counsel
for the petitioner has submitted that the impugned suspension order is against

G.O.Ms.No.175 Rural Development and Panchayat Department dated 05.12.2006. According to him, as per G.O.Ms.No.175, before placing the petitioner under suspension, the petitioner shall be heard and an enquiry shall be held. No such opportunity was given before passing the impugned order. Hence, the impugned order is violative of G.O.Ms.No.175. It is further submitted that the impugned order is contrary and in violative of Section 84 of Tamil Nadu Panchayats Act. According to him, before placing the petitioner under suspension, the respondent should have passed a resolution in this regard. 4.I have considered the submissions made by the learned counsel for the petitioner. 5.The following passage in G.O.Ms.No.175 is relied on by the petitioner for his submission that the petitioner shall be heard before placing him under suspension. "fpuhk Cuhl;rpapd; eph;thfj;jpy; Cuhl;rp cjtpahsh; Jiwapd; tpjpKiwfis kPwy;, x GA;fPdk;, ftdf;Fiwt[, jFjpapd;ik, flik jtWjy;, jtwhd eltof;iffs; Bghd;wtw;wpy; NLgl;lhy; me;j Cuhl;rp cjtpahsiu fz;ldk;, mguhjk;, Cjpa cah;t[my;yJ gzp cah;it epWj;jp itj;jy; my;yJ Kg;g[g;gl;oaypy; juk; nwf;Fjy; my;yJ f PH;epiyg; gzpaplj;jpy; itj;jy; my;yJ fhyKiw Cjpaj;jpy; f PH;epiyapy; itj;jy;, jw;fhypf gzpePf;fk; bra;J gzpapypUe;J ePf;Fjy; my;yJ gzptpyf;fk; bra;ayhk;. nUg;gpDk; mjw;F Kd;ghf me;j Cuhl;rp cjtpahsiu Beuo tprhuizf;F miHg;gJ cl;gl mth; jdJ tpsf;fj;j mspf;f mtUf;F Bghjpa tha;g;gl mspf;fg;gl;oUf;f Btz;Lk;" The said order relates to imposition of punishment such as censure, withholding of increment, reduction in rank, removal from service and suspension. Therefore, the suspension that is used in G.O.Ms.No.175 that is relied on by the petitioner is relating to imposition of punishment of suspension. The same is not suspension pending departmental enquiry. 6.For placing an employee under suspension during the pendency of departmental enquiry, no notice is required and no enquiry shall be held before placing such an employee under suspension. It is an interim measure during the pendency of disciplinary action . It is not imposing punishment. Hence, I am not in agreement with the submission made by the learned counsel for the petitioner. 7.The next submission is relating to Section 84 of Tamil Nadu Panchayats Act. Section 84 of Tamil Nadu Panchayats Act, is extracted hereunder: "84.Functions of executive authority.- The executive authority shall.- (a) carry into effect the resolutions of the village panchayat. Provided that where the executive authority considers that a resolution has not been legally passed or is in excess of the powers conferred by this Act or that, if

carried out, it is likely to endanger human life or health or the public safety, the executive authority shall refer the matter to the Government for orders and their decision shall be final; (b) control all the officers and servants of the village panchayat; (c) discharge all the duties specifically imposed and exercise all the powers conferred on the executive authority and subject to all restrictions and conditions imposed, by or under this act, exercise the executive power for the purpose of carrying out the provisions of this Act and be directly responsible for the due fulfilment of the purposes thereof." 8. In fact, Section 84(b) of the Panchayats Act, makes it clear that the respondent has control over the officers and servants of the Panchayat. If the respondent is not given power to place its servants under suspension, then there is no meaning for Section 84(b) of the Panchayats Act. In fact, Section 84(b) also gives power to the respondent to place the petitioner under suspension. 9. For all the aforesaid reasons, the writ petition fails and the same is dismissed. No costs. Consequently, connected miscellaneous petition is also dismissed. Arul To The President K. Rayavaram Village Panchayat, Thirumayam Taluk, Pudukkottai District.

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