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W.P.(MD).No.3260 of 2021

ABDUL QUDDHOSE, J.

This writ petition has been filed challenging the impugned proceedings dated 27.01.2021 issued by the fifth respondent dismissing the petitioner from service on the ground that the Panchayat President is not the competent authority to dismiss the petitioner from service and also on the ground that the charges framed against the petitioner in the disciplinary proceedings are flimsy, vague and have been framed only on account of the personal vendetta.

2. The learned Senior Counsel appearing for the petitioner would submit as follows:

a. As per the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the competent authority and the dismissing authority is only the Personal Collector to Collector (Administration) (third respondent). However, under the impugned order, the petitioner has been dismissed from service by the Panchayat President, who is not the competent authority.

b). The Panchayat Rules referred to supra were stayed only in respect of the petitioner, who had filed the writ petition before this Court in W.P. (MD).No.16884 of 2013.



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c). The same has also been clarified by the modification order passed by this Court in the aforesaid writ petition on 19.04.2017.

d). The charges framed against the petitioner in the disciplinary proceedings were 11 in number and out of the said 11 charges, DVAC had also investigated eight charges and the DVAC has found that the said eight charges are unfit for further consideration.

e). The entire set of 11 charges framed against the petitioner in the disciplinary proceedings is vague, flimsy and have been framed only on personal vendetta and with malafides.

2.(i). The learned Senior Counsel appearing for the petitioner would further submit that in the Division Bench decisions relied upon by the learned counsel appearing for the sixth respondent viz.,

a. The Division Bench judgment dated 23.08.2024 passed in W.A. (MD).No.1772 of 2023.

b. The Division Bench judgment dated 02.07.2025 passed in W.A. (MD).No.412 of 2020, the learned counsels, who had appeared in those cases never brought to the notice of the respective Division Bench about the



clarification order passed by the learned Single Judge of this Court in W.P.

(MD).No.12032 of 2014 etc batch, dated 19.04.2017, wherein, the learned Single

Judge has modified the earlier order by making it clear that the interim stay of the Rules is applicable only for the petitioner alone in the said writ petition.

Therefore, the learned Senior Counsel appearing for the petitioner would submit that the decisions relied upon by the learned counsel appearing for the sixth respondent does not have any bearing to the facts of the present case.

3. The learned Senior Counsel appearing for the petitioner also drew the attention of this Court to the order passed by the Enquiry Officer rejecting the petitioner's request for engaging a Lawyer to defend him in the enquiry proceedings and would submit that it amounts to violation of the principles of natural justice. He would submit that just because the management (respondents) had not engaged a Lawyer, the petitioner who is the delinquent cannot be prevented from engaging a Lawyer, which amounts to violation of the principles of natural justice.

4. The learned Senior Counsel appearing for the petitioner would submit that in respect of charge Nos.2 to 6, earlier, the very same set of charges were framed against the petitioner by the first respondent, but, was not proceeded thereafter by the respondents pursuant to the explanation submitted by



the petitioner. Hence, if the same set of charges are investigated once again, it amounts to double jeopardy.

5. The learned counsel appearing for the sixth respondent would submit as follows:

a. Sufficient opportunity was given to the petitioner in the enquiry proceedings. The petitioner also participated in the enquiry proceedings and had also cross-examined the witnesses of the respondents. However, after cross-examining the witnesses of the respondents, the petitioner failed to further participate in the enquiry proceedings by letting in any evidence on his side.

b. She would submit that only based on the findings rendered in the enquiry report which held that the charges framed against the petitioner were proved, the disciplinary authority, viz., the official respondents have imposed the punishment of dismissing the petitioner from service.

6. The learned Counsel appearing for the sixth respondent with regard to the grounds raised by the petitioner that the Panchayat President is not a competent authority to pass the dismissal order is concerned, she would submit as follows:

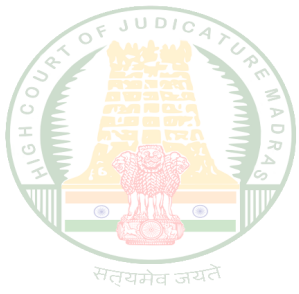


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a. By the modification order referred to supra passed by this Court in the writ petition filed by a delinquent, it was made clear that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, were stayed only insofar as the said petitioner alone is concerned and therefore, the petitioner cannot now contend that the Panchayat President is not a competent authority to dismiss the petitioner from service. She relied upon Section 106 and Section 83 of the Tamil Nadu Panchayats Act and would submit that since the Executing Authority is the Panchayat President, the Panchayat President is the competent authority to issue the impugned order dismissing the petitioner from service. She would submit that the Rules cannot override the statutory provisions, which enables the Panchayat President to issue order of such nature which is impugned in this writ petition.

7. She also relies upon the following decisions in support of her contention that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 were never implemented.

a. The Division Bench judgment of this Court dated 23.08.2024 passed in ***W.A.(MD).No.1772 of 2023*** in the case of ***the State of Tamil Nadu, Represented by its Secretary, Rural and Development and Panchayat Raj Development, Secretariat, Chennai-9 and others Vs. Paloor Village Panchayat.***



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b. The Division Bench judgment of this Court dated 02.07.2025 in ***W.A.(MD).No.412 of 2020*** in the case of ***the District Collector-cum-Inspector of Panchayat, Collectorate, Pudukkottai District and others Vs. S.I.Sumathi.***

Relying upon the aforesaid decisions, the learned counsel appearing for the sixth respondent would submit that it has been made clear in those decisions that Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, were not at all implemented and therefore, the Personal Assistant to the Collector is not a competent authority to exercise the powers of the Executing Authority and the Executing Authority is only the Panchayat President as per the provisions of Section 106 r/w Sections 83 of the Tamil Nadu Panchayats Act.

8. The learned counsel appearing for the sixth respondent also relies upon the decision rendered by the learned Single Judge of this Court dated 28.10.2022 passed in ***W.P.(MD).No.9265 and 9305 of 2022*** in the case of ***M.Boominathan Vs. The Inspector of Panchayat, District Collector, Sivagangai District and Others*** and would submit that even though in the decisions rendered by the Division Bench of this Court, the modification order was not brought to its notice, but, in the Single Bench decision dated 28.10.2022



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referred to supra, the same was brought to its notice of the learned Single Judge, who has held that the stay of Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 granted in one of the writ petitions continues to hold the field. Therefore, she would submit that it is only the Panchayat President, who is the competent authority to pass the order of the nature which is impugned in this writ petition.

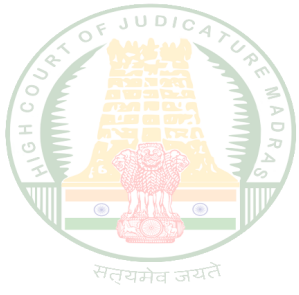
9. The learned Senior Counsel appearing for the petitioner would submit that he will produce authorities to substantiate his contention that rejecting the request of the delinquent to engage an Advocate in a disciplinary proceedings will amount to violation of the principles of natural justice and also produce authorities to support his contention that despite having not raised that ground in this writ petition, the petitioner is still entitled to raise the ground of violation of the principles of natural justice as the petitioner's requested for engaging an Advocate has been rejected by the Enquiry Officer.

10. Both Counsels are directed to file their brief notes of submissions on or before the next hearing date.

11. Registry is directed to post this case 'for arguments finally' on **14.10.2025.**

08.10.2025

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