

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.10.2021

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.7326 of 2021
and WMP Nos. 7834 & 7835 of 2021

Rajendrapattinam Village Panchayat,
Rep. by its President, T.Suresh
Virudachalam Panchayat Union,
Cuddalore District- 608 703.

... Petitioner

-Vs-

1. State of Tamil Nadu,
Rep. by Secretary,
Rural Development & Panchayati Raj Department,
Fort St. George, Chennai 600 009.

2. Director of Rural Health and Panchayati Raj Department,
Directorate of Rural Development and Panchayat Raj Department
Panagal Building, Chennai-600 015.

3. Inspector of Panchayat / Collector, Cuddalore
Gundu Salai Road, Pennaiyar Road,
Manjakuppam ,Cuddalore-607 001.

... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records and quash Na.Ka.No.A3/241/2021 signed on 18/02/2021 issued by the 3rd respondent Inspector of Panchayat / District Collector, Cuddalore r/w Na.Ka.No.A3/241/2021 dated 23.02.2021 issued by the 3rd respondent Inspector of Panchayat / District Collector Cuddalore and consequently direct the respondents or their agents not to prevent, disturb or in any manner interfere with the conduct of the Grama Sabha meetings of the Rajendirapattinam Village Panchayat in Virudachalam Panchayta Council, Cuddalore District by the petitioner as and when decided in accordance with the rules.

For Petitioners : Mr. D.Nagasaila

For Respondents : Mr. R.Shunmuga Sundaram
Advocate General
Assisted by
Mr. U.Baranidharan
Government Advocate

सत्यमेव जयते

ORDER

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This writ petition was filed challenging the proceedings of the 3rd respondent dated 18.02.2021 and the subsequent circular dated 23.02.2021 and for a consequential direction to the respondents to give

a free hand to the Village Panchayat to conduct the Gram Sabha meetings as and when required in accordance with the Rules.

2. The writ petition was admitted on 22.03.2021 and this Court directed the learned Government counsel to take instructions and report before this Court. Thereafter, the matter was posted for hearing on 06.09.2021 and this Court passed the following order:

The learned Government Counsel circulated the proceedings of the Director of Rural Development Dated 10.08.2021 to the effect that due to the prevailing Covid-19 situation, directions have been given to all the village Panchayats not to convene any Grama Sabha in village Panchayats. The learned Government Counsel shall take instructions and report before this Court as to whether the Grama Sabha in village Panchayats will be held from September or atleast October, 2021 onwards.

2.Post this case under the caption 'For Orders' on 20.09.2021. This case will be heard through physical hearing and the learned counsel for the petitioner shall be permitted.

3. The matter was once again taken up for hearing on 20.09.2021. This Court heard the learned counsel for the petitioner and the learned Advocate General appearing on behalf of the respondents. The learned Advocate General submitted that the Gram Sabha can be convened from October 2021 onwards and insofar as the main issue that was raised by the petitioner with regard to the independence of the Village Panchayat to convene Gram Sabha meetings, the learned Advocate General sought for some time to take instructions. Accordingly this Court passed the following order on 20.09.2021:

Pursuant to the orders passed by this Court on 06.09.2021, the matter was posted for hearing today.

2.Mr.R.Shanmugasundaram, learned Advocate General appearing on behalf of the respondents submitted that the Grama Sabhas can be convened from October 2021, by strictly following the Covid Standard Operating Procedure.

3.The learned counsel for the petitioner submitted that the impugned communication that has been sent by the District

Collector, dated 18.02.2021 virtually takes away the independence of the panchayat to convene Grama Sabha meetings. The learned counsel for the petitioner by bringing to the notice of this Court the object of the Tamil Nadu Panchayat Act, 1994 and also the scope of the Grama Sabha as prescribed under Section 3 of the Act, submitted that the various instructions issued by the respondents gives an impression as if such Grama Saba meetings can be convened only on the dates prescribed by the authorities and in short instead of the Panchayat President providing information with regard to the convening of the Grama Sabha meetings, he is now made to take permission from the District Collector before convening any meeting. The learned counsel for the petitioner also brought to the notice of this Court that the Tamil Nadu Grama Sabha (Procedure for convening and conducting of meeting) Rules, 1998 and the relevant Government Order in G.O.Ms.No.245 dated 19.11.1998. The learned counsel submitted that the respondents must have a complete relook on the procedure that has been prescribed which virtually takes away the independence of a local body.

4. The learned Advocate General appearing on behalf of the respondents submitted that he will take instructions in this regard and if necessary a counter affidavit will also be filed by the respondents. The learned Advocate General submitted that the

contentions raised by the learned counsel for the petitioner will be taken into consideration and it will be responded during the next date of hearing.

5.Post this case under the caption 'For Orders' on 06.10.2021.

4. When the matter was taken up for hearing today, the learned Advocate General submitted that the Gram Sabha meetings were convened in all the Panchayats on 02.10.2021. Insofar as the larger issue that has been raised by the petitioner, the learned Advocate General submitted before this Court the written instructions received from the 2nd respondent. In order to appreciate the stand taken by the respondents with regard to the main issue raised by the petitioner, it will be relevant to extract the written instructions hereunder:

It is humbly submitted that as per Section 3(1) of TamilNadu Panchayat Act 1994, there shall be a Grama Sabha for every Village Panchayat consisting of persons registered in the electoral roll relating to the Panchayat Village, comprised within the area of the said Village Panchayat.

Subject to the general orders of the Government, the Grama

Sabha shall meet at least twice in a year but six months shall not intervene between any two meetings.

As per section 3(2-A) of Tamil Nadu Panchayat Act, 1994, Every meeting of the Grama Sabha shall be convened by the President of the Village Panchayat. If the President fails to convene the meeting of the Grama Sabha, the Inspector shall convene the meeting.

It is submitted that G.O. (Ms) No.150, Rural Development (C1) Department Dated: 17.07.1998 has stated that convening the Grama Sabha should be given not less than seven clear days prior to the date and time of the meeting of the Grama Sabha.

Further, the Government ordered vide G.O.(Ms) No.245, Rural Development (C1) Department Dated: 19.11.1998 that it is mandatory to convene Grama Sabha a minimum number of 4 times i.e. On 26th January, 1st may, 15th August and 2nd October in a calender year. Besides, the Grama Sabha can be convened as and when the necessity arises such as selection of beneficiaries, Information, Education and Communication on certain projects/ Schemes, Social Audit etc.,

It is humbly submitted that no prior permission is required for the Village Panchayat Presidents to convene Grama Sabha meeting during the normal times but during this pandemic period there are restrictions imposed on not only conduct of Grama Sabha but also

many activities by the Government. The Grama Sabha is one such activity where there is possibility of aggregation of people in large numbers. Hence, the Government has issued guidelines from time to time on aggregation and crowd management so as to prevent the spread of the covid 19 pandemic in rural.

As per the Government Order G.O. Ms. No. 84, Revenue and Disaster Management (DM-IV) Department dated 31.01.2021, the restrictions in the State due to Pandemic covid 19 infection was extended till 28.02.2021 under Disaster Management Act 2005.

It is respectfully submitted that the Para II (vii) of the said Government Order stated that

'Religious congregations, all Social / Political / Entertainment / Sports / Cultural / Academic and other functions shall be permitted in closed spaces from 01.02.2021 with a maximum of 50% fo the hall capacity or with a ceiling of 600 persons. Functions in open spaces shall continue to be permitted with a maximum of 50 % of total capacity where the above said gatherings are proposed and by strictly adhering to social distancing norms. Further prior permissions shall be obtained form the Commissioner of Police in respect of Chennai City and from the District Collector in respect of District'.

At this juncture, the Village Panchayat President of

Rajendrapattinam Village Panchayat of Cuddalore District had requested the District Collector Cuddalore to permit him to convene Grama Sabha. In response to the Village Panchayat President's request, the District Collector, Cuddalore, in the interest of public health and welfare issued a letter not to convene Grama Sabha on that day due to the fear of Pandemic situation prevailing in the State and district.

In this regard, it is submitted that District Collector is acting in different capacity namely as Head of District Disaster management Authority and Inspector of Panchayats. The G.O.Ms.No.84, Revenue and Disaster Management (DM-IV) Department dated 31.01.2021 has insisted Village Panchayats to obtain prior permission for huge gatherings as a measure of protecting the people from Pandemic Covid infection. Hence, it is humbly submitted to the Hon'ble High Court that the District Collector with bonafide intention has not permitted the Village Panchayat to conduct Grama Sabha on 24.02.2021 as a preventive measure against the spread of Covid 19.

The intention of the Inspector is to conduct Grama Sabha in a safe environment. Hence, the writ petition is not maintainable. The government and the Inspector of Panchayats have no intention to obstruct the constitutional mandate of Grama Sabha and the Village

Panchayat presidents are no way prohibited to conduct the Grama Sabha.

The Village Panchayat president may suo-moto convene Grama Sabha on normal times without prior permission of the Government or from the Inspector of Panchayats. In such instances, a copy of the notice and the agenda shall be sent to the Inspector not less than seven clear days before the date of the meeting.

5. The learned Advocate General appearing on behalf of the respondents submitted that the 3rd respondent had issued the impugned circular by taking into consideration the pandemic situation. It was submitted that the letter informing that the Gram Sabha meetings should be held on four specified dates that is on January 26th, May 1st, August 15th and October 2nd does not mean that these meetings can be held only four times in a year. Learned Advocate General submitted that it is mandatory to convene Gram Sabha at least for a minimum number of 4 times in a calendar year in those 4 dates that are mentioned in the letter. It was submitted that the Tamil Nadu Panchayat Act mandates under Section 3(ii) that the Gram Sabha shall meet atleast twice in a

year. However, the respondents have insisted that the Gram Sabhas should meet at least 4 times in a year as per the above letter. The learned Advocate General also took a very categorical stand that there cannot be any restrictions imposed in conducting Gram Sabhas and it can be convened any number of times as and when required by the concerned Panchayat. The restrictions as found in the impugned circulars was made taking into consideration the pandemic situation and it was issued by the District Collector under the Disaster Management Act. That does not mean that it will be a permanent feature and it confines itself only to the Pandemic period. The learned Advocate General further submitted that the 3rd respondent wanted to ensure that the Gram Sabha meetings are conducted in a safe environment without getting exposed to the Covid Virus and there was no intention to limit the powers of the Village Panchayats which are guaranteed under the Panchayat Act.

6. The learned Advocate General concluded his argument by submitting that the Panchayat President can convene Gram Sabha meetings during normal times without any prior permission of the Government or the Inspector of Panchayats, whenever it is required. Before convening those meetings, a copy of the notice and the agenda should be sent to the Inspector of Panchayats not less than seven clear days before the date of the meeting.

7. In view of the fair stand taken on the side of the respondents and after recording the submissions of the learned Advocate General, this Court finds that the grievance expressed by the petitioner has been sufficiently redressed. It is made clear that the impugned circulars that have been put on challenge confines itself only to the Pandemic period and it will not be made applicable during normal times. That apart, the 4 days, that has been mentioned in the circular dated 18.02.2021, is the minimum number of times that Gram Sabha meetings should be convened in a calender year.

8. This writ petition is disposed of accordingly. No costs.
Consequently, the connected miscellaneous petitions are closed.

06.10.2021

Index : Yes/No
Internet : Yes/No
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To

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N.ANAND VENKATESH, J.

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