
(2011) 07 MAD CK 0176
In the Madras High Court
Case No : Writ Appeal (MD) No. 659 of 2011

A. Solaimalai

APPELLANT

Vs

The District Collector - cum -Inspector of Panchayats, The
Block Development Officer (Village Panchayats) and The
President Sengattampatti Panchayat, Batlagundu Panchayat
Union

RESPONDENT

Date of Decision : 20-07-2011

Acts Referred:

Tamil Nadu Panchayats Act, 1994 — Section 83, 84

Citation : (2011) 07 MAD CK 0176

Hon'ble Judges : P. Jyothimani, J;M. Duraiswamy, J

Bench : Division Bench

Advocate : K. Anandan, for the Appellant; No appearance, for the Respondent

Final Decision : Dismissed

Judgement

P. Jyothimani, J.—The Writ Appeal is directed against the order of the learned Single Judge in W.P.(MD) No. 689 of 2011 dated

17.06.2011, whereby the writ petition filed by the Appellant challenging the order of suspension pending enquiry passed by the second

Respondent Block Development Officer, dated 13.04.2010, came to be dismissed.

2. The contention raised by the Appellant, as submitted by the learned Counsel for the Appellant is that, as per the provisions of Section 83 of the

Tamil Nadu Panchayats Act 1994, the executive authority is the President of the Village Panchayat, who has got control over the service

conditions of the writ Petitioner/Appellant as per Section 84(b) of the Act. Since the writ Petitioner/Appellant happens to be the Panchayat Clerk,

the impugned order passed by the second Respondent Block Development Officer suspending the writ Petitioner/Appellant pending enquiry, is not

sustainable.

3. According to the learned Counsel, the Appellant is losing one more right of filing an appeal against the order of the President to the Block

Development Officer. We do not subscribe to the said view. As it was held by the Supreme Court in Surjit Ghosh Vs. Chairman and Managing

Director, United Commercial Bank, and others, , that such plea can be raised only in cases where the final order has been passed by the authority,

who is above the original authority competent to pass orders and in such an event, it is open to the charged officer to raise the ground that his right

of appeal is denied. But in the present case, it is an order of suspension pending enquiry, which has been passed by the second Respondent Block

Development Officer. There is no question of appeal against the order and final order has to be passed after enquiry.

4. The learned Single Judge has correctly relied upon the earlier judgment of this Court reported in 2011 (3) MLJ 630 for rejecting the claim of the

Appellant. There is nothing to interfere with the order of the learned Single Judge. The writ Appeal fails, and the same is, accordingly, dismissed.

As submitted by the learned Counsel for the Appellant, if the authority competent has framed charges against the Appellant, the authority shall

complete the same in accordance with law after giving necessary opportunity to the Appellant in accordance with law and pass appropriate orders

with liberty to the Appellant to challenge the same in the manner known to law and such order shall be passed by the concerned authority within a

period of eight weeks from the date of receipt of a copy of this order. No costs. Consequently connected miscellaneous petition is closed.