(2006) 09 MAD CK 0214

In the Madras High Court

Case No : Writ Petition No. 5887 of 1996

R. Desikan APPELLANT

Vs

State of Tamilnadu and Others RESPONDENT

Date of Decision : 21-09-2006

Acts Referred:

Constitution of India, 1950 — Article 243G
Tamil Nadu Panchayats Act, 1994 — Section 167, 171, 172, 172A, 175

Citation : (2006) 4 LW 858 : (2006) 4 MLJ 1280

Hon'ble Judges : S. Manikumar, J;P. Sathasivam, J

Bench : Division Bench

Advocate : V. Selvaraj, for the Appellant; D. Geetha, A.G.P. and S.A. Rajan, for R-5, for the Respondent

Final Decision : Dismissed

Judgement

P. Sathasivam, J.—One R. Desikan, who is said to be the Chairman of Federation of Consumer Organisations of Tamil Nadu, filed this

Public Interest Litigation, seeking to quash the proceedings of the Government of Tamil Nadu in GO.Ms. No. 209, Rural Development (PR)

Department, dated 13.12.1995, and the proceedings of the Director of Rural Development, dated 15.12.1995 and 28.12.1995; and direct

respondents 4 to 11 to refund the sum of Rs. 7158.79 lakhs to the Government of Tamilnadu, which has been diverted from the Panchayats and

Panchayat Union funds.

2. Heard Mr. V. Selvaraj, learned Counsel for the petitioner; Mrs. D. Geetha, learned Additional Government Pleader for the State; and Mr. S.A.

Rajan, learned Counsel for the 5th respondent.

3. In view of the points raised in this Writ Petition, it is unnecessary to traverse

into the factual details as stated in the affidavit.

4. Learned Counsel for the petitioner submitted that the Government is not justified in diverting the funds of the Panchayats and Panchayat Unions

for other than welfare measures. According to him, it is opposed to public policy and, in any event, no such power is provided either under the

Constitution of India or the Tamil Nadu Panchayats Act.

5. On going through the relevant provisions and the object and reasons as stated in the impugned Government Order, viz., G.O.Ms. No. 209,

dated 13.12.1995, we are unable to accept the above contentions for the following reasons.

6. Article 243-G of the Constitution of India speaks about the powers, authority and responsibilities of Panchayats; and the same is extracted

here-under,

243-G. Powers, authority and responsibilities of Panchayats.-- Subject to the provisions of the Constitution, the Legislature of a State may, by

law, endow the Panchayats with such powers and authority as may be necessary to enable them to function as institutions of self-government and

such law may contain provisions for the devolution of powers and responsibilities upon Panchayats, at the appropriate level, subject to such

conditions as may be specified therein, with respect to--

(a) the preparation of plans for economic development and social justice;

(b) the implementation of schemes for economic development and social justice as may be entrusted to them including those in relation to the

matters listed in the Eleventh Schedule.

7. It is not in dispute that, as per the above provision, it is the State Government, which owes the responsibility in respect of Panchayats and it is

for them to make necessary laws/provisions enabling the Panchayats to function as Institutions of self-government. The said provision also enables

the State Government to implement various schemes for economic development of the people.

8. Chapter-IX of the Tamil Nadu Panchayats Act, 1994, refers to Taxation and Finance and the relevant provisions are Sections-167, 171, 172,

172-A, 175, 185, 187, 190 and 191. Amongst those provisions, Section-191 is relevant, which deals with expenditure from Village Panchayat

Fund and Panchayat Union Fund, and it reads as under:

191. Expenditure from Village Panchayat Fund and Panchayat Union Fund.-- (1) The purposes to which the funds of the panchayat union council

or of the village panchayat may be applied include all objects expressly declared obligatory or discretionary by this Act or any rules made

thereunder or by any other laws or rules and the funds shall be applicable thereto within the panchayat development block or the panchayat village,

as the case may be, subject to such rules or special orders as the Government may prescribe or issue and shall, subject as aforesaid be applicable

to such purposes outside the panchayat development block or panchayat village if the expenditure is authorized by this Act or specially sanctioned

by the Inspector.

(2) It shall be the duty of every panchayat union council and village panchayat to provide for the payment of--

(a) any amount falling due on any loans contracted by it;

(b) the salaries and allowances and the pensions, pensionary contributions and provident fund contributions of its officers and servants;

(c) sums due under any decree or order of a court; and

(d) any other expenses rendered obligatory by or under this Act or any other law.

(3) A panchayat union council or village panchayat may, with the sanction of the Government, contribute to any fund for the defence of India.

(4) A panchayat union council or village panchayat may, with the sanction of the Inspector also--

(a) contribute towards the expenses of any public exhibition, ceremony or entertainment in the panchayat development block or panchayat village;

(b) contribute to any charitable fund, or to the funds of any institution for the relief of the poor or the treatment of disease or infirmity or the

reception of in-disposed or infirm persons or the investigation of the causes of disease; and

(c) defray any other extraordinary charges.

9. It is not in dispute that the above provisions enable the State Government to prescribe special Rules/orders regarding welfare measures for the

panchayat or the Panchayat Union either from the funds of the Panchayat or Panchayat Union or from the other funds available.

10. The preamble of the impugned G.O. makes it clear that in order to provide necessary information to the villagers, particularly in the field of

education and for the welfare of women and children, installation of more Television Sets in the Panchayats and Panchayat Unions is paramount.

Paragraph No. 8 of the impugned G.O. highlights the proposal of the Director of Rural Development that part of the total amount required for the

purchase of the T.V. Sets may be met from the excess funds available with the Panchayats and Panchayat Unions. It also shows that the

Government is not taking the entire funds available with the Panchayats and Panchayat Unions, on the other hand, it authorised the Director of

Rural Development to take only a portion from that funds; and substantial amounts have been diverted from other departments for the benefit of

the villagers in the Panchayats and Panchayat unions. In such circumstances, in the light of the objects and reasons enumerated in the impugned

Government Order itself and considering the enabling provisions in the Tamil Nadu Panchayats Act, we are unable to accept the argument of the

learned Counsel for the petitioner. On the other hand, we are satisfied that the Government have not violated any of the provisions and, in fact, the

steps taken to provide more T.V. Sets to the Panchayats and Panchayat Unions are laudable as the same will be beneficial to the rural public, who

have no easy access to innovative resources. In such circumstances, we do not find any merit in the Writ Petition.

11. Writ Petition fails and the same is dismissed. No costs.