

Villupuram District –Kanai Panchayat Union, Kanjanur Panchayat – Tmt.A.Shanthi, formerly Panchayat President – Revision Petition filed challenging removal order / notification of the Collector.

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**Rural Development and Panchayat Raj (P.R.IV) Department**

**G.O.(D) No.420**

**Dated:1.7.2009**  
Read:

1. Collector, Villupuram proceedings No.A3/1594/08, dated 07.1.2009.
2. Notification No (VI) (2)4/2009 published in Tamil Nadu Government Gazette No.4, dated 4.2.09.
3. Revision Petition of Tmt.A.Shanthi, Ex-President, Kanjanur Panchayat, Villupuram District, dated 19.02.2009.

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**ORDER:**

The Collector Villupuram District initiated action under section 205 (1) of Tamil Nadu Panchayats Act, 1994 against Tmt.A. Shanthi, Ex-President, Kanjanur Panchayat, for irregularities in the matter of implementation of NREGS in the Panchayat.

2. As a result of the action and proved misappropriation of funds, the Collector removed her from the post of Panchayat President on 7/01/09 in the reference 1<sup>st</sup> read above and notified the same in the Tamil Nadu Government Gazette on 4.2.09 in the reference second read above.

3. The removed Panchayat President filed Revision Petition to Government against the orders of the Collector, Villupuram in the reference third read above. The Revision Petitioner was given opportunities to present her case in person on 01.06.2009. She presented her written explanation in person.

4. The Original records of the Collector, Villupuram the contention of the Revision Petitioner and additional arguments presented by the petitioner during personal hearing were examined carefully and independently by the Government in detail. The contentions of the petitioner and observations of the Government on the same are as follows:

**Contentions of the Petitioner (a)**

The order of the learned District Collector cum the Inspector of Panchayat passed order in Na.Ka.A3/1594/08/Vu.E(Voo) dated 07.1.2009 and later published in the Tamil Nadu State Gazette notification dated 4.2.2009 is erroneous in law and against the basic principles of natural justice.

**Observation of the Government:**

The notification for the removal of Kanjanur Panchayat President was issued following procedures laid down in the provisions of section 205 (1-11) and not capricious, not arbitrary, erroneous and against the basic principles of natural justice.

**Contention of the Petitioner (b)**

The petitioner submits that the learned District Collector cum the Inspector of Panchayats did not give proper opportunity to the petitioner to explain the facts of charges leveled against the appellant. Hence the order is vitiated and liable to be set aside.

**Observation of the Government:**

The contention in the appeal that the Inspector of Panchayats did not give proper opportunity to the petitioner is not correct.

Following opportunities had been given to the petitioner before removing-

- 1) a show cause notice was issued on 12.03.2008 and asked to submit the explanations on the charges framed and accordingly the petitioner had submitted the explanation on 15.3.2008.
- 2) The explanations were perused by the Inspector of Panchayats based on evidences and records and considered as the explanations offered were not satisfactory, it was decided to proceed further to remove the President and Tashildar, Villupuram was directed under section 205(2) to proceed further as per section 205 (3-10) of Tamil Nadu Panchayats Act, 1994, to know the views of Panchayat Council.
- 3) After exhausting all the provisions contemplated in the section 205 of the Tamil Nadu Panchayats Act, 1994, the Panchayat President was given an opportunity to further represent her cause and thus a personal hearing was ordered by the District Collector on 01/12/2008. Therefore the contention of the petitioner is liable to be rejected.

**Contention of the Petitioner (c):**

The petitioner submits that the learned District Collector cum Inspector of Panchayats failed to record the statements from the workers relating to the work done by the workers on 5.2.2007 and also did not inspect the place of site to ascertain the real fact about the work done by the workers. Therefore the arbitrary act of the District Collector without appreciating the merits of the case is liable to be set aside.

**Observation of the Government:**

The statement of the appellant is wrong. Originally the inspection of the NREGS work was carried out by the Assistant Director (Panchayats), Villupuram on 05.02.2008. During the inspection at the worksite, the workers were not present. But when the workers were summoned for signature verification, there were variation between their original signatures and the signatures present in the NMR. Based on the inspection report of the Assistant Director (Panchayats) and only after ensuring prima facie evidence against the Panchayat President, it was decided to initiate action under section 205 of Tamil Nadu Panchayats Act, 1994 against the Kanjanur Panchayat President. Further the Assistant Director of Panchayats had actually inspected the work spot and observe that the works were not on that day. Hence the statement that the work spot is not visited to ascertain the fact is wrong.

**Contention of the Petitioner : (d)**

The Appellant submits that the learned District Collector cum Inspector of Panchayats ought to have considered the very vital fact that the enquiry was already conducted by the Tahshildar with the Panchayat ward members on

5.3.2008, the 6 ward members attended the meeting out of nine, 3 members supported the president other 3 members said no comments, the above proceedings did not considered by the District Collector. Therefore the arbitrary order passed by the respondent is liable to be set aside and also the order of the District Collector violating under section 205 (b) of Tamil Nadu Panchayat Act 1994.

**Observation of the Government :**

The views expressed by only one-third of the members in favour of the Panchayat President had no merit and no majority. However it was considered with the facts and proven records. As there were no merits the views were ignored by the Inspector of Panchayats after consideration.

**Ground (e) :**

The petitioner submits that the impugned order does not reveal the fact on which basic, the allegation was made against the petitioner and the copy of such allegation or complaint was not given to the petitioner.

**Observation of the Government :**

The forgery of NMR was found out at the time of the routine inspection of the Assistant Director (Panchayats), Villupuram on 5.2.2008 and not based on complaint or petitions received from no one.

**Ground (f & g) :**

The Appellant submits that the learned District Collector ought to have considered that there has been work done by the worker and the pay was not given to the workers. Therefore there is no monetary loss done by the Appellant. Hence the District Collector order bad in law.

The petitioner submits that later development all workers did not received salary from the Panchayat but the said works done by them. Hence the district Collector order is liable to be set-aside.

**Observation of the Government :**

The statement in the para above is wrong. During the inspection of the Assistant Director (Panchayats) on 5.2.2008 at Kanjanur Panchayat, the NREGS workers were not present at the spot. Also there were no sign of work being done on that date. The verification of signatures in NMR and that of the originally obtained from the persons revealed contradiction. During the personal hearing on 1.12.2008 the Makkal Nala Paniyalar had given statement that the signatures of 14 labourers were forged by the Panchayat Assistant. Ravindran, Monetary loss was avoided due to the timely inspection of the officer. If the inspection was not done, the malpractice may be gone unearthed. Therefore it is obvious that with the intention of misappropriation of NREGS money, the NMR was forged by the President.

**Contention of the Petitioner : (h) (i)**

The Appellant submits that the learned District Collector and the Inspector of Panchayats has taken away the constitutional right to the Panchayat of the petitioner as contemplated under article 24C of the constitution of India. Therefore the district collector did not follow the procedure laid under the law

which the District Collector failed to consider this aspect and recorded an unilateral findings. Therefore impugned order is liable to be set aside.

The other reasons given by the District Collector is neither sustainable in law nor on fact.

**Observation of the Government :**

The forged NMR was caught red-handed during the inspection of the Assistant Director (Panchayats), Villupuram. The removal order is issued based on the proven records such as the forged NMR, contradictory statement issued by the Panchayat President from time to time. During the personal hearing conducted by the Collector on 1.12.08, the Panchayat President and 7 ward members accepted that the NMR has been forged but the blame was foisted on the Panchayat Assistant by them. But earlier in the explanation statement dated 15.3.08 of the Panchayat President, it is stated that Panchayat Assistant has gone to the EB office and not present in the village. The contradictory statement and forged NMR forms basis for the removal of the Panchayat President.

The notification for the removal of the Kanjanur Panchayat President is issued with no malafide intention, bias or arbitrariness. All proceedings taken in this regard is adhering to the provisions as laid down in section 205 of Tamil Nadu Panchayats Act 1994 and by exercising the powers empowered to the Inspector of Panchayats. The Tamil Nadu Panchayats Act is enacted based on the Constitution of India provided under Article 243. The Inspector of Panchayats has strictly adhered the norms as laid down under section 205 of the Tamil Nadu Panchayats Act 1994 as empowered to the Inspector of Panchayats. Hence the Inspector has not violated the article 243 of the Constitution of India.

**Representation during personal hearing:-**

The petitioner along with her Advocate appeared. The Advocate pleaded that the petitioner is an ignorant women. No wages were actually paid by her and the Collector did not inspect the work. However

**Observation of the Government :**

However from the records it is found that the Assistant Director (Panchayats) Villupuram, inspected the work site on 05.02.08. When the workers were summoned for signature verification there were variation between their original signature and signature present in the NMR.

Further the plea that the President is an ignorant woman is not an excuse.

Therefore the plea is liable to be rejected.

5. After detailed examination the Government have decided to reject the revision petition of Tmt.A.Shanthi, formerly Panchayat President, Kanjanur Panchayat Villupuram District as devoid of merits and accordingly reject the Revision Petition.

(By Order of the Governor)

**K.ASHOK VARDHAN SHETTY,**  
PRINCIPAL SECRETARY TO GOVERNMENT.