



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)Nos.24135 & 26587 of 2019

and

**W.M.P(MD)Nos. 20726, 20727, 20729, 22942, 22944 of 2019 &
4832, 1521 of 2020**

M.Keerthana ... Petitioner in
W.P.(MD)No.24135 of 2019

G.Anitha ... Petitioner in
W.P.(MD)No.26587 of 2019

Vs.

1. The District Collector,
Sivagangai District, Sivagangai.

2. The Assistant Director,
Sivagangai District, Sivagangai.

3. The Block Development Officer/Special Officer for
T.Velankulam Panchayat,
Thiruppuvanam Taluk,
Thiruppuvanam,
Sivagangai District.

4. V.Vairavamoorthy ... Respondents in both the Petitions



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

PRAYER in W.P.(MD)No.24135 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records relating to the impugned order passed by the 3rd respondent herein in his proceedings No.83/718/2018, dated 07.11.2019 quash the same and consequently direct the respondents 1 to 3 to appoint the petitioner in the post of Village Panchayat Secretary, T.Velankulam Village, Tiruppuvanam Taluk, Sivagangai District.

PRAYER in W.P.(MD)No.26587 of 2019 : Writ Petition filed under Article 226 of the Constitution of India for issuance of *Writ of Certiorarified Mandamus*, calling for the records pertaining to the Impugned Order Ref.Na.Ka.No.P 3/718/2018, dated 07.11.2019 on the file of the 3rd respondent relating to the appointment order of 4th respondent and quash the same illegal and consequently direct the 3rd and 2nd respondents to consider and appoint the petitioner to the post of T.Velangulam Village Panchayat Secretary in the 3rd respondent's Village Panchayat.

In W.P.(MD)No.24135 of 2019

For Petitioner	: Mr.S.C.Herold Singh
For R-1 & R-2	: Mr.R.Suresh Kumar Additional Government Pleader
For R-3	: No appearance
For R-4	: Mr.H.Mohammed Imran, for M/s.Ajmal Associates



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

In W.P.(MD)No. 26587 of 2019

For Petitioner : No appearance
For R-1 & R-2 : Mr.R.Suresh Kumar
Additional Government Pleader
For R-3 : No appearance
For R-4 : Mr.H.Mohammed Imran, for
M/s.Ajmal Associates

COMMON ORDER

Since the issue involved in both the Writ Petitions are similar in nature both the writ petitions are taken up together and disposed of by a common order.

2(i). W.P.(MD)No.26587 of 2019 has been filed for ***Certiorarified Mandamus*** to quash the impugned order, dated 07.11.2019, with a consequential direction to the 2nd and 3rd respondents to consider and appoint the petitioner as Village Panchayat Secretary in the 3rd respondent's Village Panchayat.

2(ii). Writ of *Certiorarified Mandamus* has been filed for ***Certiorarified Mandamus*** to quash the impugned order dated 07.11.2019 relating



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

to the appointment order of 4th respondent and consequently direct the 3rd and 2nd respondents to consider and appoint the petitioner to the post of T.Velangulam Village Panchayat Secretary in the 3rd respondent's Village Panchayat

3. The 4th respondent namely V.Vairavamoorthy was selected in the selection process and he was issued an appointment order and he was serving in the said post. But the allegation against the 4th respondent is that he has produced false certificates in order to secure his appointment. At this stage this issue cannot be gone into, since at the time of hearing this writ petition, it was submitted by the parties that the 4th respondent committed suicide and died.

4. The 1st respondent has filed counter stating that the said post was reserved for '**Backward community other than Muslim community**'. The petitioner G.Anitha, belongs to Most Backward Community (Maravar), therefore, the said G.Anitha is not entitled to be considered. Therefore this Court is of the considered opinion since the post was allotted to the Back Ward community, the petitioner belongs to Most Backward Community, the writ petition filed in W.P. (MD)No.26587 of 2019 by G.Anitha is liable to be dismissed.



W.P.(MD)Nos. 24135 & 26587 of 2019

5. The **W.P.(MD)No.24135 of 2019** has been filed by M.Keerthana, challenging the same appointment granted to the said V.Vairavamoorthy.

6. The learned counsel appearing for the petitioner submitted that for the said post 32 candidates have applied. After conducting interview, the respondents have short listed 6 candidates. The list of candidates is extracted here under:

வ. எண்	கிரம ஊராட்சியின் பெயர்	ஒதுக்கப்பட்ட இன சமூகம்	விண்ணப்பதாரரின் பெயர் மற்றும் முகவரி
3.	டி.வேலாங்குளம்	பிற்படுத்தப்பட்டோர்- (முஸ்லீம் தவிர)	மு.வினோத்துமார் த-பெ.முனிஸ்வரன் 1-179 நடுத்தெரு டி.வேலாங்குளம் 8870256913
4	டி.வேலாங்குளம்	பிற்படுத்தப்பட்டோர்- (முஸ்லீம் தவிர)	செ.அய்யனார் த-பெ.சேதுராமன் 2-81 ஊ.டி.வேலாங்குளம் 9600720527
5	டி.வேலாங்குளம்	பிற்படுத்தப்பட்டோர்- (முஸ்லீம் தவிர)	மு.கீர்த்தனா த-பெ.முனிஸ்வரன் 1-172, நடுத்தெரு டி.வேலாங்குளம் 9442120590
6	டி.வேலாங்குளம்	பிற்படுத்தப்பட்டோர்- (முஸ்லீம் தவிர)	அ.ஈஸ்வரன் த-பெ.அய்யனார் 2-23, அய்யம்பேட்டை டி.வேலாங்குளம் 7094958596



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

7. The contention of the petitioner, M.Keerthana is that the said V.Vairavamoorthy produced fake and false documents, moreover he died. Hence the other candidates in the “short listed candidates” are entitled to be considered. The petitioner further submitted that the official respondents have not followed the rules of reservation. The petitioner is 100% physically disabled women and based on the rules of reservation, the petitioner ought to be considered for appointment under disabled women category.

8. The learned Additional Government Pleader appearing for the official respondents submitted that the unsuccessful candidates cannot challenge the selection process. In support of his contention, the learned counsel appearing for the petitioner relied on the Judgment rendered by the *Hon'ble Supreme Court in the case of D.Sarojakumari Vs. R.Helen Thilakom and Others, reported in 2017 SCC Online SC 1095*. This Court is of the considered opinion that in the present case, the writ petitioners and other five persons cannot be stated as unsuccessful candidates and they were selected and are in the “short listed candidates”. The said V.Vairavamoorthy was selected based on the



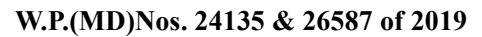
W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

available records, but the records seems to be fake. Moreover, the respondents have not followed the rules of reservation especially the rules of priority. The petitioner being 100% disabled person will come under the prior category cannot be termed as unsuccessful candidate. Hence, the said judgment is not applicable to the present case.

9. Therefore, this Court is of the considered opinion that the respondents ought to have consider the other five candidates by following the rules of reservation, including the rules of priority under disability etc. Hence, the respondents are directed to consider the merits of the said five candidates, by strictly following the rules of reservation including priority category and issue an appointment order to the candidate who would be selected in the said process. The said exercise shall be completed within a period of six weeks from the date of receipt of a copy of the order.

10. At this juncture, the learned counsel appearing for the 4th respondent submitted that the deceased V.Vairavamoorthy was appointed and



11. Accordingly, the writ petition filed in W.P.(MD)No.26587 of 2019 by G.Anitha is dismissed. The writ petition filed in W.P.(MD)No.24135 of 2019 by M.Keerthana is disposed of with aforesaid directions. No Costs. Consequently, connected miscellaneous petitions are closed.

08.06.2023



W.P.(MD)Nos. 24135 & 26587 of 2019

WEB COPY

To

1. The District Collector,
Sivagangai District,
Sivagangai.
2. The Assistant Director,
Sivagangai District,
Sivagangai.
3. The Block Development Officer/Special Officer for
T.Velankulam Panchayat,
Thiruppuvanam Taluk,
Thiruppuvanam,
Sivagangai District.



WEB COPY



W.P.(MD)Nos. 24135 & 26587 of 2019

S.SRIMATHY, J

ksa

**Common Order made in
W.P.(MD)Nos.24135 & 26587 of 2019**

08.06.2023