

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2015

CORAM

THE HONOURABLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.17009 of 2015

and

M.P.Nos.1 and 2 of 2015

V.Raja

President : Elavampatty Panchayat,
Tharamangalam Panchayat Union,
Elavampatty & Post,
Omalur Taluk, Salem District. ... Petitioner

Vs.

1. The Personal Assistant (Development)
to the District Collector,
Salem District, Salem.
2. The Assistant Director of Rural Development (Audit),
District Collectorate Campus,
Salem District, Salem.
3. The Block Development Officer,
(Village Panchayat),
Tharamangalam Panchayat Union,
Salem District.
4. M.Janaki,
Panchayat Secretary,
Ariyampatti Panchayat,
Selavadi Post, Omalur Taluk,
Salem District. ... Respondents

Prayer: Petition under Article 226 of the Constitution of India praying for issue of a Writ of Certiorari, calling for the records relating to the order of the 1st respondent dated 26.02.2015 in Na.Ka.No.33935/2013/Thi3., and the consequential order of the 3rd respondent dated 28.02.2015 in Na.Ka.No.3338/2012/Thi2/ and quash the same.

For Petitioner : Mr.K.Selvaraj
For RR-1 to 3 : Mr.K.Rajendra Prasad,
Government Advocate
For R-4 : Mr.R.Ravichandran
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ORDER

The petitioner is the President of Elavampatty Panchayat Union, Omalur Taluk in Salem District. The petitioner made a representation dated 09.01.2013 to the third respondent requesting him to take action against the fourth respondent on the ground that she availed medical leave without permission and without handing over certain Registers thereby causing hindrance to maintenance of Registers.

2. Based on the same, on 17.01.2013, the third respondent directed the fourth respondent to hand over the Registers of the Panchayat to the In-charge Secretary of the petitioner-Panchayat.

3. While so, on 06.06.2013, the second respondent inspected the petitioner-Panchayat and on 16.07.2013, the second respondent directed the third respondent to verify the accounts of the petitioner/ Panchayat since it was informed that the fourth respondent was absent for a period of one year and to submit a report.

4. The third respondent submitted a report to the first respondent stating that the fourth respondent was unauthorisedly absent for 20 days. Based on the same, on 13.08.2013, the first respondent directed the fourth respondent to submit her explanation for her unauthorized absence and for acting against certain Government Orders.

5. On 29.10.2013 the first respondent issued a Charge Memo to the fourth respondent.

6. While so, the first respondent issued a direction to the third respondent to permit the fourth respondent to rejoin duty pending disciplinary proceedings.

7. The petitioner seeks to quash the order of the first respondent permitting the fourth respondent to rejoin duty and consequential posting order.

8. All these facts are admitted by the petitioner in the averments made in support of the writ petition and also in the synopsis filed along with this writ petition.

9. Learned counsel appearing for the petitioner has submitted that in view of Section 104 r/w. Section 84 of the Tamil Nadu Panchayat Act, the first respondent has no authority to issue such a

direction to the third respondent.

10. I am not in agreement with the submission of the learned counsel for the petitioner. The District Collector is the Inspector of Panchayat. Therefore, I am of the view that the first respondent has power to issue the aforesaid direction and also power to issue a direction to provide employment to the fourth respondent pending disciplinary proceedings.

11. The learned counsel for the petitioner also submitted that the impugned order is passed based on G.O.Ms.No.72, Rural Welfare and Panchayat Raj Department, dated 09.07.2013. A reading of the impugned order does not state that the same is based on G.O.Ms.No.72, dated 09.07.2013, though it is mentioned in the reference column of the impugned order.

12. In any event, the authorities came to the conclusion that the fourth respondent was unauthorisedly absent for some period and the remaining period were covered by appropriate leave letter, but she had not enclosed the medical certificate. The same is evident from the communication of the third respondent in Na.Ka.No.3228/2012/Thi.2, dated 12.11.2013, though the writ petitioner alleges that the fourth was unauthorisedly absent for a year.

13. Taking into account the aforesaid facts, the first respondent issued appropriate direction permitting the fourth respondent to join duty. Considering the entire facts and circumstances and also in the interest of justice, I am not inclined to interfere with the impugned order in this writ petition.

14. Accordingly, the writ petition fails and the same is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-/-
Asst.Registrar (CS IV)

/true copy/

Sub Asst. Registrar

Jr1/gg

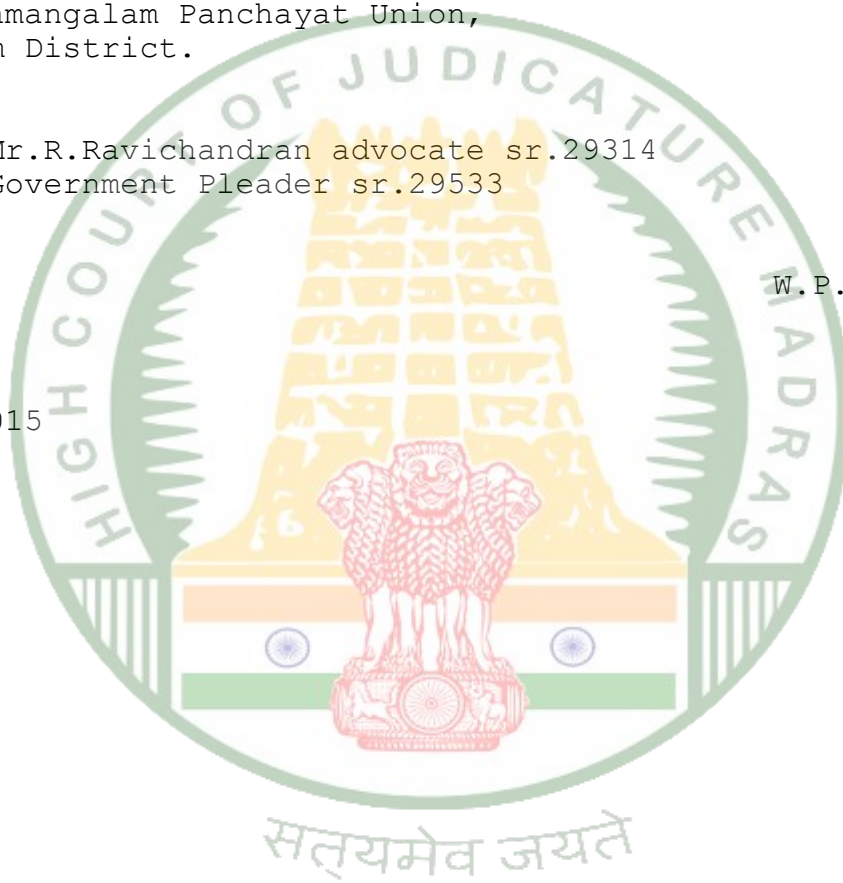
To

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3. The Block Development Officer,
(Village Panchayat),
Tharamangalam Panchayat Union,
Salem District.

+1 cc to Mr.R.Ravichandran advocate sr.29314
+1 cc to Government Pleader sr.29533

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