

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.08.2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.25259 of 2015

And

M.P.No.1 of 2015

R.Kanchana Mala @ V.R.Kanchana Mala ... Petitioner

Vs.

1 The District Collector
Vellore District

2 The Personal Assistant to
Collector (Development) Vellore District
Vellore

3 The Block Development Officer
Village Panchayat Arcot Panchayat Union
Arcot Vellore District

4 P. Gopi Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the 2nd respondent in his proceedings in Na. Ka. P.C1/8120/2012 dt 8.7.2015 and quash the same.

For Petitioner : Mr.G.Jeremiah

For Respondents : Mr.V.Subbiah for R1 to R3
Special Government Pleader

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The petitioner would state that at present he is holding the post of President of Veppur Village Panchayat, and one Velayutham was employed as Panchayat Secretary and in pursuant to the order of the first respondent dated 22.11.2012, he was transferred to Nandiyalam Village Panchayat and he was also relieved by the petitioner vide order dated 11.02.2013. The first respondent has also transferred one K.Narayanan, the Panchayat Secretary of Nandiyalam Village Panchayat to occupy the post of Secretary of Veppur Village Panchayat.

3.The third respondent has also posted the said Narayanan the Panchayat Secretary at Nandiyalam Village Panchayat to hold the additional charge of Veppur Village Panchayat vide proceedings dated 20.01.2015 and subsequently, by an order dated 16.04.2015, the first respondent has directed the President of Nandiyalam Village Panchayat to implement the order dated 22.11.2012. The above said orders are put to challenge in W.P.No.18207 of 2015 and stay was granted on 24.06.2015.

4.It is the claim of the petitioner that the second respondent without due and proper application of mind has issued the impugned order dated 08.07.2015 communicated to the petitioner on 28.07.2015 transferring Velayutham from Uppupettai Village Panchayat, Veppur and posted the fourth respondent to the vacancy thus caused. According to the petitioner, the said impugned order is in violation of Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 and prays for interference.

5.Mr.G.Jeremiah, learned counsel appearing for the petitioner would submit that as per Rule 11 (2) of the said Rule, transferring, posting within the block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned. Transfer and posting to other blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/ Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector and admittedly, the impugned order has been passed by the Personal Assistant to the Collector and not by the Block Development Officer and hence, prays for appropriate orders.

6.This Court also heard the submissions of Mr.V.Subbiah, learned Special Government Pleader who accepts notice on behalf of the respondents 1 to 3.

7.It is relevant to extract Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 which reads as follows:

"11.Transfer:-(1) Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.

(2) Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned. Transfer and postings to other blocks

within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/ Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector."

8. Admittedly, the impugned order came to be passed by the Personal Assistant to the Collector and not by the Block Development Officer. Hence, on the sole ground the impugned order warrants interference.

9. In the result, the writ petition is partly allowed and the impugned order dated 08.07.2015 is set aside and the matter is remanded to the third respondent for passing fresh orders in accordance with law in the light of the above said rule within a period of two weeks from the date of receipt of a copy of this order and till then, there shall be an order of status-quo as existed on 14.08.2015 shall be maintained. No costs. Consequently, the connected miscellaneous petition is closed.

pri

s/d-
Assistant Registrar (CS-III)

True Copy

Sub-Assistant Registrar

To

- 1 The District Collector
Vellore District
- 2 The Personal Assistant to
Collector (Development) Vellore District
Vellore
- 3 The Block Development Officer
Village Panchayat Arcot Panchayat Union
Arcot Vellore District

+ 2 ccs to Govt. Pleader SRs 44721 and 48200

+ 1 cc to Mr. G. Jermiah, Advocate SR 44640

vsn(co)
prk11/9

W.P.No.25259 of 2015 And M.P.No.1 of 2015