

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 06.06.2016

CORAM

THE HONOURABLE MR. JUSTICE HULUVADI G.RAMESH
AND

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.A. NO. 592 OF 2016

AND

C.M.P. NO. 7807 OF 2016

The President

Enjambakkam Panchayat

No.123, Enjambakkam Village

Walajabad Union, Karai Post

Kancheepuram Union

Karai Post, Kancheepuram

Kancheepuram Taluk & Dt.

.. Appellant

- Vs -

1. K.Rajkumar

2. The Block Development Officer

Village Administration

Walajabad Union, Kancheepuram

Kancheepuram Taluk & Dt.

3. The District Collector

(Rural Development Section)

Kancheepuram, Kancheepuram Dt.

.. Respondents

Writ Appeal filed against the order dated 14.07.2014 passed by the learned single Judge in W.P. No.23386 of 2012 presented to this court under Art 226 of the constitution of India to issue a writ of Mandamus directing the 1st respondent to reinstate the petitioner as Panchayat Assistant with continuity of service with backwages in consonance with the order passed by the 3rd respondent on 31.05.2012 in proceedings No. 55.9343/2011 U.O. 2.

For Appellant : Ms. T.Dharani

For Respondents: Ms. Srijevanthi,

Spl. G.P. For RR-2 & 3

ORDER

(DELIVERED BY HULUVADI G.RAMESH, J.)

Heard the learned counsel appearing for the appellant and the learned Special Government Pleader appearing for respondents 2 and 3.

2. The case of the appellant/Panchayat Union is that due to certain misconduct on the part of the first respondent, who was working as Panchayat Assistant, commotion was created in the panchayat and, therefore, the first respondent remained absent. Due to the abovesaid alleged misconduct, the first respondent was terminated from service. However, on appeal, the appellate authority, viz., the 3rd respondent/District Collector, the first respondent was directed to be reinstated in service. Since the said order was not complied with, the first respondent preferred a writ petition, which was allowed by the learned single Judge. Aggrieved against the said order, the appellant/Panchayat is before this Court by filing the present appeal contending inter alia that if the first respondent is to be reinstated in service, he may be reinstated in some other panchayat, as his reinstatement in the appellant/panchayat union would cause unrest in the locality and likely to create law and order confusion in the area.

3. It is evident from the order of the learned single Judge that the writ petition was filed only to comply with the order passed by the third respondent. Even before the learned single Judge, learned Addl. Government Pleader had submitted that the writ petition has to be allowed to which no answer worth the mention was forthcoming from the appellant herein.

4. It is trite law that if there is any allegation of misconduct or commission of offence attracting the provisions of the Indian Penal Code or any other penal statute, penal law has to be set in motion by the Panchayat by filing complaint to the police or to file complaint before the higher authorities, viz., the respondents 2 and 3. For misconduct of a public servant, action could be initiated by way of departmental enquiry. However, if it is an offence against society, then necessarily it is for the law enforcement agency to take action in accordance with law on the complaint filed or to be filed by the concerned party. Therefore, the remedy for the appellant Panchayat lies elsewhere and not before this Court by way of a writ petition.

5. In such view of the matter, this Court finds no reason to interfere with the order of the learned single Judge in

reinstating the 1st respondent as Panchayat Assistant. It is for the appellant to work out his remedy in a manner known to law. With the above observation, this writ appeal is disposed of. Consequently, connected miscellaneous petition is closed. However, there shall be no order as to costs.

Sd/-
Assistant Registrar (CO)

//True Copy//

Sub Assistant Registrar

GLN

To

1. The President
Enjambakkam Panchayat
No.123, Enjambakkam Village
Walajabad Union, Karai Post
Kanchipuram Union
Karai Post, Kancheepuram
Kancheepuram Taluk & Dt.
2. The Block Development Officer
Village Administration
Walajabad Union, Kancheepuram
Kancheepuram Taluk & Dt.
3. The District Collector
(Rural Development Section)
Kancheepuram, Kancheepuram Dt.

1 cc to Mr.T.Dharani, Advocate, sr.29757

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W.A. NO. 592 OF 2016

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