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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.01.2016

CORAM :

THE HONOURABLE MR.JUSTICE V.RAMASUBRAMANIAN

and

THE HONOURABLE MR.JUSTICE N.KIRUBAKARAN

Writ Appeal(MD) No.37 of 2016

and

C.M.P (MD) No.306 of 2016

M.Vijayakumar

... Appellant

Vs.

1.The District Collector cum
Tirunelveli District,
Tirunelveli.

2.The Project Director,
District Rural Development Agency,
Tirunelveli District,
Tirunelveli.

3.The Block Development Officer (Village Panchayats)
Valliyoar Panchayat Union,
Valliyoar,
Tirunelveli District.

... Respondents

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 22.12.2015 made in W.P.(MD) No.23221 of 2015.

Prayer in WP(MD). 23221/ 2015 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court Pleased to issue a Writ of Certiorari calling for the records of the Ist respondent in his proceedings in Na.K.a No.12/59936/2015 dated 08.12.2015 and quash the same.

For Appellant

: Mr.V.Karthikeyan

For Respondents

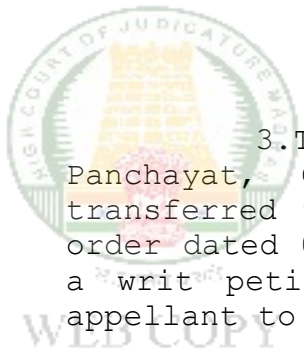
: Mr.A.K.Baskarapandian
Special Government Pleader.

JUDGMENT

(Judgment of the Court was delivered by **V. RAMASUBRAMANIAN, J**)

The appeal arises out of an order passed by the learned Judge refusing to interfere with an order of transfer.

2.Heard Mr.V.Karthikeyan, learned counsel for the appellant.
Mr.A.K.Baskarapandian, learned Special Government Pleader takes notice for the respondents.



3.The appellant is employed as Secretary in Yacobpuram Village Panchayat, Chidambarapuram, in Valliyoor Panchayat Union. He was transferred to Alangulam Panchayat Union by the District Collector by an order dated 08.12.2015. Challenging the said order, the appellant a filed a writ petition. It was dismissed by the learned Judge forcing the appellant to come up with the above writ appeal.

4.The main and only ground of attack of the appellant to the order of transfer is that under Section 105 of the Tamil Nadu Panchayat Act, 1994, the transfer of a servant of a Village Panchayat can be made by the District Collector only after consultation with the executive authority namely, the President of the Village Panchayat. But in this case, admittedly, the transfer was ordered by the District Collector, after consulting the Block Development Officer, who is the Commissioner of the Panchayat Union.

5.But the above contention was rejected by the learned Judge on the short ground that the President of the Village Panchayat himself is liable to be removed by the District Collector in exercise of power conferred by Section 205 and that therefore, the question of consultation with the Panchayat President does not arise.

6.We do not think that the view taken by the learned Judge is wrong. It is true that Section 104 uses the expression executive authority. But it does not mean that the Collector has to go by the views of the President of the Village Panchayat. As rightly observed by the learned Judge in paragraph 9, the expression executive authority need not be necessarily denote the Chairman of the Panchayat Union Council.

7.Moreover, in the case on hand, the wife of the appellant is the elected President of a neighboring village panchayat. Proceedings initiated for her removal under Section 205 of the Tamil Nadu Panchayat Act 1994 are already under stay by this Court in a different proceedings. The appellant was also dismissed from service for certain irregularities and that has been stayed in yet another writ petition. Therefore, the question of consultation with the President of the Village Panchayat does not arise in cases of this nature. Hence, the writ appeal is dismissed. No costs. Consequently, C.M.P.No.306 of 2016 is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar
Madurai Bench of Madras High Court,
Madurai.

To

1.The District Collector cum
Tirunelveli District,
Tirunelveli.



2.The Project Director,
District Rural Development Agency,
Tirunelveli District,
Tirunelveli.

3.The Block Development Officer (Village Panchayats)
Valliyoor Panchayat Union,
Valliyoor,
Tirunelveli District.

+1cc to M/S.V.Perumal, Advocate in SR.No. 2452

+1cc to Special Government Pleader in SR.No. 2475.

TS/01.02.2016/3P-6C/JGB-DP

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and
C.M.P (MD) No.306 of 2016

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