

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 26.02.2018

Coram

THE HONOURABLE Mr. JUSTICE K.K.SASIDHARAN

AND

THE HONOURABLE Mr. JUSTICE P.VELMURUGAN

W.A.No.1643 of 2015
and M.P.No.1 of 2015

V.Raja ... Appellant/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 ... Respondents/Respondents

Writ Appeal filed under Clause 15 of Letters Patent to set-aside the order dated 16.06.2015 made in W.P.No.17009 of 2015.

prayer in WP.17009 OF 2015: *सत्यमेव जयते*

Presented under Art 226 of the Constitution of India to issue a Writ of Certiorari calling for the records relating to the order of the 1st respondent dated 26.2.2015 in Na.Ka.No.33935/2013/Thi3. and the consequential order of the 3rd respondent dated 28.2.2015 in Na.Ka.No.3338/2012/Thi2 and quash the same

For Appellant	:	Mr.K.Selvaraj
For R1 and R2	:	Mr.V.Anandhamurthy Additional Government Pleader
For R3	:	Mr.R.Ravichandran
For R4	:	Mr.M.Ravi

J U D G M E N T

[Judgment of the Court was delivered by K.K.SASIDHARAN, J.]

The writ petition filed by the appellant in W.P.No.17009 of 2015 challenging the order passed by the Collector, Salem on the ground that prior concurrence was not taken from the President of the Village Panchayat to reinstate the fourth respondent into service, was dismissed by the learned single Judge with an observation that given the background facts, there is no need to interfere in the said order passed by the District Collector. The order is under challenge at the instance of the President of Elavampatty Panchayat, Omalur Taluk, in the district of Salem.

2. We have heard the learned counsel for the appellant and the learned counsel for the respective respondents.

3. The fourth respondent appears to have taken leave without permission and the same affected the administration of the Panchayat. The Disciplinary Authority initiated action against the fourth respondent. Subsequently, the District Collector revoked the suspension and reinstated her in service, subject to the outcome of the disciplinary proceedings. We are informed that the disciplinary proceedings ended in giving a warning to the fourth respondent.

4. The appellant is aggrieved on account of the decision taken by the District Collector in a service matter relating to an employee of the local body without consulting the President. The Government Orders referred to in the memorandum of appeal filed by the appellant was issued for consulting the President of the Panchayat before taking action against the employees of the Panchayat. In the subject case, no such effective consultation was made with the appellant before passing the order reinstating the employee into service. We are, therefore, of the view that the course of conduct adopted by the Collector was not in accordance with the Act. However, we are not interfering with the order passed by the Collector at this point of time, in view of the disposal of the disciplinary proceedings against the fourth respondent with a "warning". We direct the District Collector to record the punishment given to the fourth respondent in her service records.

5. We make the position clear that before taking action against the servant of the local body or passing further orders for reinstatement, the consultation with the elected body is a mandatory requirement.

The intra court appeal is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-vi)

//True Copy//

Sub Assistant Registrar

gms

To

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.The District Collector,
Salem District

+1cc to the Government Pleader, S.R.No. 14791
+1cc to Mr.K.SELVARAJ, Advocate, S.R.No.14403
+1cc to Mr.N,RAVI, Advocate, S.R.No. 14839

सत्यमेव जयते

W.A.No.1643 of 2015

RSY (CO)
TR(26/03/2018)

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