

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.04.2019

CORAM

THE HONOURABLE MR.JUSTICE K. RAVICHANDRABAABU

W.P..No.1620 of 2015
and
MP Nos.2 and 3 of 2015

M.Senthil Kumar

... Petitioner

Vs.

1.The Commissioner/Director for
Rural Development,
Panagal Building,
15, Jeenis Road,
Saidapet,
Chennai 15.

2.The District Collector,
Coimbatore District,
Coimbatore.

3.Thenkumarapalayam Panchayat,
Rep. by the President,
Thenkumarapalayam Post,
Pollachi South,
Pollachi Taluk,
Coimbatore District.

... Respondents

Prayer:writ petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records on the file of the second respondent in connection with the orders passed by him in his proceedings Proc.Na.Ka.No.1168/2012/Ke4 dated 06.03.2013 and Na.Ka.No.1168/2012/Ke4 dated 13.06.2013 and quash the same and direct the second respondent to approve the appointment of the petitioner as his appointment was in accordance with G.O.Ms.No.175, Rural Development (Ma) Panchayat (E5) Department, dated 05.12.2006 with effect from the date of his appointment i.e., 15.2.13 with all monetary and service benefits.

For Petitioner : Mr.R.Jayaprakash

For Respondents : Mr.R.Govindasamy for R1 and R2
Special Government Pleader
Mr.P.S.Sivashanmugasundaram for R3

O R D E R

The petitioner is aggrieved against the order of the second respondent dated 06.03.2013 in canceling his appointment as Panchayat Secretary.

2.Heard both sides.

3.The petitioner was appointed to the post of Panchayat Secretary with effect from 15.02.2013 by an order issued by the third respondent. Thereafter, the second respondent passed the impugned order on 06.03.2013, cancelling such appointment on the reasons that the petitioner did not qualify to the said post. The said order is put to challenge in this writ petition mainly on the ground of violation of the principles of natural justice.

4. It is the specific case of the petitioner that before passing the impugned order of cancellation, the second respondent has not given an opportunity of hearing to the petitioner by issuing any notice. When such specific averment is made in the affidavit filed in support of the writ petition, there is no denial of the same in the counter affidavit filed by the second respondent. Further perusal of the impugned order would show that no such opportunity was given to the petitioner. Therefore, it is evident that the impugned order was passed in violation of the principles of natural justice, as the petitioner was not put on notice. Needless to say that canceling the appointment is an adverse order passed against the petitioner and therefore, before passing such order, the second respondent ought to have given an opportunity of hearing to the petitioner. Since it has not been done in this case, this Court is inclined to set aside the impugned order and remit the matter back to the second respondent to reconsider the matter afresh after issuing notice to the petitioner.

5. As this Court is not expressing any view on the merits of the reasons stated in the impugned order, it is for the second respondent to consider and pass fresh order on merits and in accordance with law. Thus, the writ petition is allowed and the impugned order is set aside and the matter is remitted back to the second respondent to pass a speaking order, after hearing the petitioner and considering his objections. The petitioner shall treat the impugned order itself as the show cause notice and file his objections within a period of two weeks from the

date of receipt of a copy of this order before the second respondent. On receipt of such objection, the second respondent shall pass fresh order on merits and in accordance with law within a period of eight weeks thereafter. It is made clear that setting aside the order of cancellation by this Court will not entitle the petitioner to resume to the post, since this Court has only remitted the matter back to the second respondent to pass fresh orders on merits and in accordance with law. No costs.
vri

Sd/-

Assistant Registrar(AD IV)

//True Copy//

Sub Assistant Registrar

To

1.The Commissioner/Director for
Rural Development,
Panagal Building,
15, Jeenis Road,
Saidapet,
Chennai 15.

2. The District Collector,
Coimbatore District,
Coimbatore.

+lcc to Mr.R.Jayaprakash, Advocate, SR.No.39687/19

+lcc to the Govt.Pleader, Vide Sr.No.39895/19

W.P.No.1620 of 2015

सत्यमेव जयते

Kak (29/05/2019)

WEB COPY