

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 21.11.2019

Coram

The Honourable Mr.Justice D.KRISHNAKUMAR

W.P.No.3090 of 2013

M.M.Ramesh

...Petitioner

Versus

1.The District Collector,
Vellore.

2.The Block Development Officer,
Pernampattu, Vellore.

3.The President,
Thuthipattu Village,
Panchayat, Vellore.

...Respondents

Prayer:Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari calling for the records on the file of the first respondent in proc No.Na.Ka.BC1/604/2013, dated 23.01.2013 and quash the same as illegal, incompetent and unconstitutional.

For Petitioner : Mr.V.Raghavachari

For Respondent - 1 : Mrs.K.Bhuvaneshwari,
Addl. Govt. Pleader

Respondent - 2 : Mr.A.Kumar, Senior Counsel
for Mr.G.Mutharasu

Respondent - 3 : Mr.Ilayaraja Venkatesan

O R D E R

The relief sought for in the present writ petition is to call for the records on the file of the first respondent in proc No.Na.Ka.BC1/604/2013, dated 23.01.2013 and quash the same as illegal, incompetent and unconstitutional.

2. It is the case that the petitioner is working as a Secretary at Thuthipattu Panchayat. The third respondent/President of the Thuthipattu Village Panchayat is one Mrs.V.Kousalya. However, she does not attend the work of the Panchayat but she allowed her husband to interfere with the day-to-day affairs of the Panchayat. This was the annoyance to the members of the Panchayat. The third respondent's husband directed the petitioner to sanction and approve the building plan without even placing the records in the council meeting. Her husband demanded of the panchayat not to initiate any action against the polluting industries. Hence, complaints were lodged by the members of the panchayat to the first respondent/District Collector and the Director of Panchayats requesting them to initiate coercive action against the third respondent.

3. While so, the first respondent transferred the petitioner to Pappanapalli and posted one Mr.Krishnamurthi, Assistant working in Pappanapalli Panchayat to Thuthipattu Panchayat. Instead of acting on the complaints of the members of the Panchayat, the first respondent transferred the petitioner to a new location. Aggrieved by the transfer order issued by the first respondent, the petitioner has filed the present writ petition for the relief stated supra.

4. The learned counsel for the petitioner submitted that without conducting any enquiry, the first respondent transferred the petitioner to Pappanapalli Village Panchayat. He further submitted that the action of the first respondent is against the provisions of Section 104 of the Tamil Nadu Panchayat Act. He therefore prayed that the transfer proceedings issued by the first respondent is illegal and therefore, the same is liable to be quashed.

5. The learned counsel appearing for the second respondent submitted that one Thiru.R.Krishnamurthy working in Pappanapalli Panchayat was on default of his duty similarly the petitioner working in Thuthipattu Village Panchayat was also found to be non cooperative and lethargic in day-to-day activities of the panchayat. Hence, the third respondent communicated the activities of the petitioner in Thuthipattu Village Panchayat to the second respondent vide letter dated 02.01.2013, in which the member of the council had signed conceding to the petitioner's transfer and to appoint some other person as Village Panchayat Secretary.

5.1 The learned counsel further submitted that in correspondence to the said letter, the second respondent had recommended to the first respondent on the transfer of the petitioner from Thuthipattu Village Panchayat. After a careful

consideration, the first respondent passed an order dated 23.01.2013. The first respondent is nowhere acted derogatory to the provisions of 104 of Tamil Nadu Panchayat Act, 1994. He therefore prayed for the dismissal of the present writ petition.

6. Heard both sides and perused the materials available on record.

7. It is relevant to extract the provision of 104 of Tamilnadu Panchayat Act, 1994 hereunder:

"104. Transfer of Officers and servants of Village Panchayats and Panchayat Union Councils:

(1) Any officer or servant of a Village Panchayat may be transferred to the service of any Panchayat Union council or any other Village Panchayat by the Inspector:

Provided that no officer or servant shall be so transferred except after consulting the Commissioner or the Executive Authority concerned:

Provided further that in making a transfer under this sub section, the Inspector may issue such general or special directions as may in his opinion be necessary for the purpose of giving due effect to such transfer.

(2) Notwithstanding anything contained in this Act or the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920), any officer or servant of a Panchayat Union Council (including the Commissioner) may be transferred by the Government to the services of any other Panchayat Union Council or any Municipality constituted under the Tamil Nadu District Municipalities Act, 1920 (Tamil Nadu Act V of 1920)

Provided that no officer or servant (other than the Commissioner) shall be so transferred except after consulting the Panchayat Union Councils or Municipal Councils concerned:

Provided further that the Government while making a transfer under this subsection may issue such general or special directions as may in their opinion be necessary for the purpose of giving due effect to such transfer."

8. From a perusal of the aforesaid provision, it is crystal clear that the transfer shall be made only after the consultation with the Commissioner or the Executive Authority. The first respondent passed the impugned transfer order to the petitioner, on the recommendation of the second respondent. So this Court finds no infirmity in the said impugned transfer order.

9. In the result, this Writ Petition is dismissed as being devoid of merits. However, liberty is granted to the writ petitioner to approach the authority concerned, to work out his remedy. No costs.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

mrr
To

1.The District Collector, Vellore.

2.The Block Development Officer,
Pernampattu, Vellore.

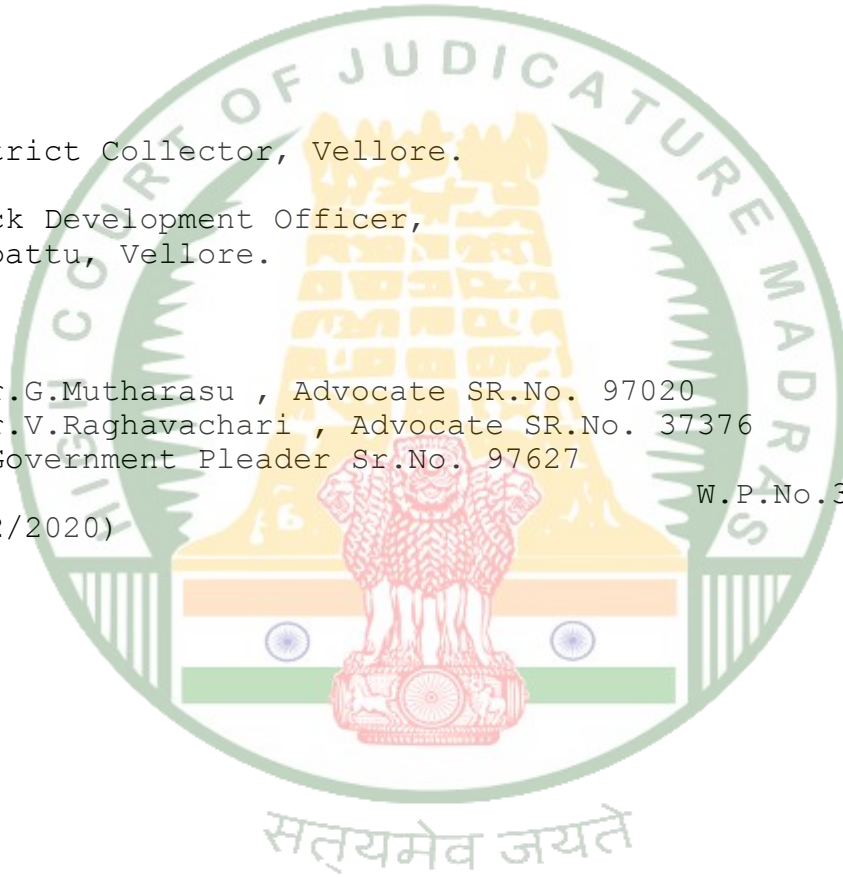
+1cc to Mr.G.Mutharasu , Advocate SR.No. 97020

+1cc to Mr.V.Raghavachari , Advocate SR.No. 37376

+1 cc to Government Pleader Sr.No. 97627

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A.SK(17/02/2020)



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