

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED :12.03.2019

CORAM
THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.7032 of 2019

M.Tamilchelvi

..Petitioner

vs

- 1.The Secretary to Government
Rural Development and Panchayat Raj Department
Secretariat, Chennai - 600 009
- 2.The District Collector,
Villupuram
Villupuram District.
- 3.The Personal Assistant to the District Collector
(Development), Villupuram.
- 4.The Block Development officer
Mayilam Panchayat Union,
Kooteripattu, Tindivanam Taluk
Villupuram District.

..Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the respondents to consider the representation dated 24.01.2019 of the petitioner with regard to irregular appointment of Panchayat Secretary for Periyathachur Village, Panchayat Tindivanam Taluk, Villupuram District.

For Petitioner : Mr.G.Punniakoti

For Respondents : Mr.R.S.Selvam, Government Advocate
for R1 to R3

Mr.K.S.Suresh, Government Advocate for R4

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to consider the representation dated 24.01.2019 of the petitioner with regard to irregular appointment of Panchayat Secretary for Periyathachur Village, Panchayat Tindivanam Taluk, Villupuram District.

2.The representation dated 24.01.2019 reveals that the writ petitioner seeks cancellation of an appointment made in favour of some other person. The appointment was made to the Post of

Panchayat Secretary.

3.The grievances of the writ petitioner is that she participated in the process of selection as well as attended the interview and without considering her case, the other person, who is residing in a far off place, is appointed to the Post of Panchayat Secretary. Though another person has already been appointed in the Post of Panchayat Secretary, the writ petitioner has not chosen to challenge the order of appointment issued in favour of the third person nor the person, who was already appointed has not been impleaded as a party respondent in the present writ petition. Contrarily, the writ petition is filed with a prayer to consider the representation. Once, the process of selection is completed and a person is already appointed, the writ petitioner has to challenge the order of appointment, if there is any irregularity, malpractice or corrupt activities in the process of selection. Mere participation in the process of selection would not confer any right on the candidate to challenge the order of appointment made in favour of other selected persons. If at all, any illegality, the petitioner has to challenge the order of appointment issued in favour of other persons. Contrarily, she cannot seek a direction to dispose of the representation. No such direction can be issued without adjudicating the issues involved and the sanctity of the appointment already made in favour of some third person.

4.This 'dispose of the representation' mantra is increasingly permeating the judicial process in the High Courts and the Tribunals. Such orders may make for a quick or easy disposal of cases in overburdened adjudicatory institutions. But, they do no service to the cause of justice. The litigant is back again before the Court, as this case shows, having incurred attendant costs and suffered delays of the legal process. This would have been obviated by calling for a counter in the first instance, thereby resulting in finality to the dispute. Contrarily, issuing such directions would not solve the issues or to redress the grievances in respect of the litigants, who are approaching the Court of law. One writ petition provides cause for all subsequent writ petitions or such directions are sometimes sought for by filing writ petition in order to create a fresh cause of action in respect of lapsed issues. The Courts, without considering the delay and other legal issues, issuing directions to consider the representations. This provides a fresh cause of action for the litigants to again re-open the cases, which had already closed or settled long back. Judicial creation of cause of action by entertaining such prayers is certainly impermissible. Litigants shall not be permitted to seek such directions for the purpose of re-opening cause, which were already dead or the litigants slept over their rights.

5. Under these circumstances, even in a writ petition, where a direction to dispose of representation is sought for, the Court must be cautious and ascertain the facts and details and the circumstances, so as to issue such directions in a meaningful manner and keeping in mind that the justice is done to the parties to the lis as a whole. Otherwise, it will be a mechanical exercise of judicial review without even considering or ascertaining the facts and circumstances and the issues involved.

6. This being the essential criterias and ingredients to be ascertained and followed by the Constitutional Courts, this Court is of an undoubted opinion that direction to consider the representation or dispose of the same, can never be granted in a routine manner or in a mechanical manner without ascertaining the facts, grievances, and other legal issues involved with reference to the prayer sought for. The Hon'ble High Court cannot be a cause for multiplication of litigations. The Hon'ble High Court would not pave way for the litigants to create litigations. Every issue brought before the Hon'ble High Court must be settled with the legal principles and with reference to the facts and circumstances raised by the parties concerned.

7. Under these circumstances, the present case is one such case, where the representation itself is vague and not clear with reference to the relief sought for by the writ petitioner. If at all, the writ petitioner is aggrieved, the petitioner is at liberty to approach the authorities competent with clear details and with the specific facts and circumstances.

8. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar (CS VIII)

//True Copy//

Sub Assistant Registrar

kak

To

1. The Secretary to Government
Rural Development and Panchayat Raj Department
Secretariat, Chennai - 600 009

2. The District Collector,
Villupuram
Villupuram District.

3.The Personal Assistant to the District Collector
(Development), Villupuram.

4.The Block Development officer
Mayilam Panchayat Union,
Kooteripattu, Tindivanam Taluk
Villupuram District.

+1cc to Mr.G.Punniyakotti, Advocate, S.R.No.23033

+1cc to the Government Pleader, S.R.No.23607

W.P.No.7032 of 2019

SJ(CO)

RRS(12/04/2019)



WEB COPY