

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE K.K. SASIDHARAN
and
THE HONOURABLE MR. JUSTICE P.D. AUDIKESAVALU

W.A. No. 1464 of 2019
and
C.M.P. No. 10012 of 2019

M.S. Sivakumar ... Appellant/Petitioner

-vs-

1. The Collector,
Kancheepuram District,
Kancheepuram.
2. The Block Development Officer (Village Panchayat/Special
Officer,
St. Thomas Mount Panchayat Union,
Chitlapakkam,
Chennai - 600 064.
3. Vengaivasal Panchayat,
Vengaivasal,
Chennai - 600 126.
4. M.J. Ruban Abraham ... Respondents/Respondents

PRAYER:- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order dated 11.04.2019 in W.P. No. 546 of 2019 and consequently direct the First to Third Respondents to retain the Appellant in the Third Respondent Panchayat.

Prayer in W.P.No.546 of 2019:Writ Petition filed Under Article 226 of Constitution of India praying to issue a Writ of Certiorarified mandamus, to Call for the concerned records from the 1st respondent quash the order of the 1st respondent dated 28.12.2018 bearing Se.Mu.Na.Ka.No.26913/2012/Pa.B2 and consequently direct the 1st respondent to retain the petitioner in the 3rd respondent Panchayat.

For Appellant : Mr. Balan Haridas

For Respondents: Mrs. A. Sri Jayanthi,
Special Government Pleader
(for R1 to R3)

Mr. Mohan for Mr. J. Elumalai
(for R4)

J U D G M E N T

(Judgment of the Court was delivered by P.D. AUDIKESAVALU, J.)

The intra-Court Appeal arises out of the order dated 11.04.2019 in W.P. No. 546 of 2019 passed by the Learned Judge of this Court.

2. This Court during the earlier hearing on 24.04.2019 had passed an order, the contents of which are self-explanatory, and the same is extracted below:-

"Heard the Learned Counsel for the Appellant, the Learned Special Government Pleader for Respondents 1 to 3 and the Learned Counsel for the Fourth Respondent.

2. We have perused the entire proceedings on record. We have also perused the original file produced by the District Collector. We have also gone through the statutory provisions relating to transfer.

3. The impugned order passed by the District Collector, Kancheepuram District does not contain any reference to the Rules, more particularly, Rule 11 of Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013. There is a legislative mandate to indicate the reasons for transfer in the order. There are no reasons stated in the order of transfer. The proceedings for transfer have to be issued by the Block Development Officer. However, in the subject case, the order was issued only by the District Collector. We therefore do see a prima facie case made out by the appellant.

4. The order passed by the District Collector dated 28 December, 2018 shall remain stayed. We direct the Respondents 1 to 3 to permit the Appellant to join service as Secretary of Vengaivasal Panchayat forthwith. In case, the Fourth Respondent has already

joined the post, he shall be shifted so as to enable the Appellant to join. The Appellant would retire on attaining the age of superannuation on 30 April, 2019. It is open to the Respondents 1 to 3 thereafter to post a suitable person in the post of Secretary.

5. This order shall be duly complied with by the District Collector, Kancheepuram District and a report of compliance shall be filed before this Court on 29 April, 2019 failing which the District Collector shall appear in person before this Court on 30 April, 2019.

6. Post on 29 April, 2019."

3. When the matter is taken up today, a compliance report dated 28.04.2019 has been filed by the Collector, Kancheepuram District stating that he has issued transfer order on 25.04.2019 by reposting the Appellant as Panchayat Secretary at Vengaivasal Panchayat, St. Thomas Mount Panchayat Union and a copy of the same has been produced along with the joining report of the Appellant dated 26.04.2019 and the proceedings of the Block Development Officer, Vengaivasal Panchayat, St. Thomas Mount Panchayat Union dated 26.04.2019 relieving the Fourth Respondent, and the same are recorded.

4. Since the Appellant would retire from service on attaining the age of superannuation on 30.04.2019, we reiterate that it would be open to the competent authority to thereafter post a suitable person in the post of Panchayat Secretary, Vengaivasal Panchayat, St. Thomas Mount Panchayat Union.

5. In view of the aforesaid subsequent events, nothing survives for further adjudication in the Writ Appeal and the same is accordingly disposed of with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Assistant Registrar (CO)
//True Copy//

Sub Assistant Registrar

To

1. The Collector,
Kancheepuram District,
Kancheepuram.

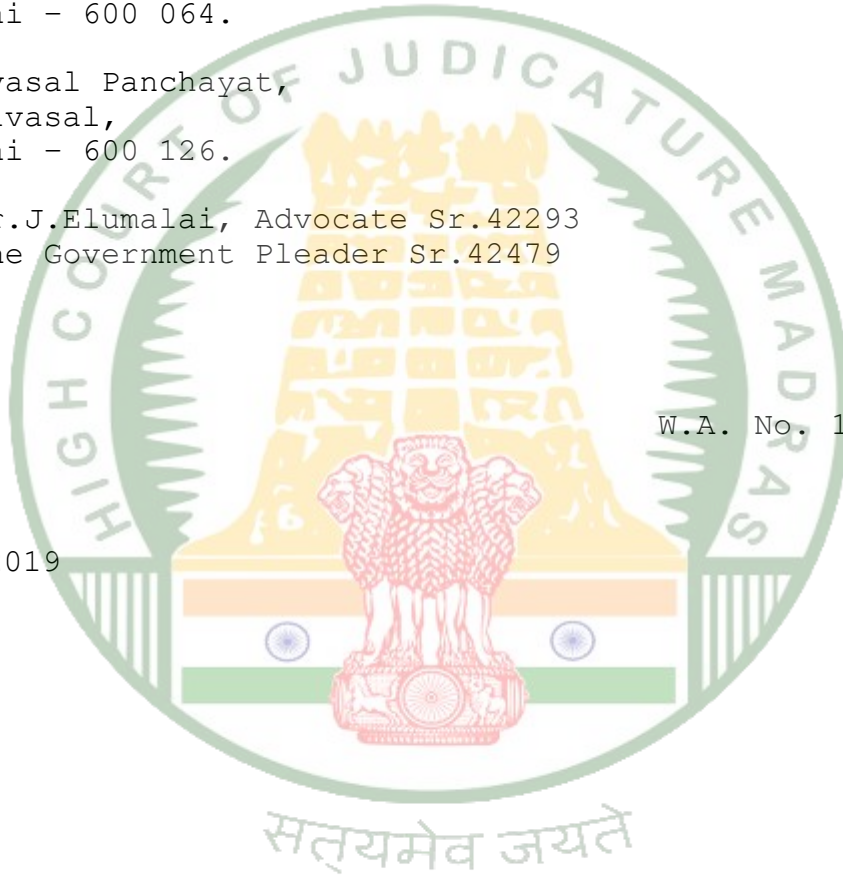
2. The Block Development Officer (Village Panchayat/Special
Officer,
St. Thomas Mount Panchayat Union,
Chitlapakkam,
Chennai - 600 064.

3. Vengaivasal Panchayat,
Vengaivasal,
Chennai - 600 126.

+2cc to Mr.J.Elumalai, Advocate Sr.42293
+1cc to the Government Pleader Sr.42479

W.A. No. 1464 of 2019

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