

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27/8/2019

C O R A M

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.No.24387 of 2019

P. Ramesh

Petitioner

Vs

- 1.The Secretary to Government
Rural Development and Panchayat Raj Department
Secretariat
Fort St. George
Chennai 600 009.
- 2.The Commissioner
Rural Development and Panchayat Raj Department
Panagal Building, Saidapet
Chennai.
- 3.The Director
Rural Development and Panchayat Raj Department
Panagal Building, Saidapet
Chennai.
- 4.The District Collector-cum-Chairman
District Rural Development Agency
Kancheepuram District.
- 5.P.A. To Collector
Panchayat Development
Kancheepuram District.
- 6.The Additional Director (Panchayat)
Kancheepuram District.
- 7.The District Superintendent of Police
Kancheepuram District.
- 8.The Special Officer/Commissioner
Thandalam Village Panchayat
Thandalam, Thiruporur Taluk
Kancheepuram District.

Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of mandamus, directing the fourth respondent to give protection to the service conditions of the Panchayat Secretaries, as well as their safety and securities from the miscreants elements from interfering in any unlawful manner while they are discharging their duties in the capacity of village Panchayat Secretaries in the Village Grama Sabha Meeting which is being held in Thandalam Village Panchayat.

For Petitioner ... Mr.P.Gurunathan

For respondents... Mr.E.Manoharan
Additional Government Pleader
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O R D E R

(Order of the Court was made by S.MANIKUMAR, J)

Petitioner, is the resident of Thandalam Village, seemed to have made a representation, dated 13/8/2019, to the respondents. Contending inter alia that the said representation has not been answered, instant writ petition is filed, as a public interest writ petition, to direct the District Collector-cum-Chairman, Kancheepuram District, fourth respondent, to give protection to the service conditions of the Panchayat Secretaries, as well as their safety and securities from the miscreants elements, from interfering in any unlawful manner while they are discharging their duties, in the capacity of village Panchayat Secretaries, in the Village Grama Sabha Meeting which is being held in Thandalam Village Panchayat.

2. Averments in the writ petition are verbatim reproduced from the said representation.

3. Inviting the attention of this Court to G.O.Ms.130, Rural Development and Panchayat Raj (C 4) Department, dated 25/9/2006, Mr.P.Gurunathan, learned counsel for the petitioner submitted that rules have been framed for convening and conducted grama sabha meeting. Added further, he submitted that as per the said G.O., grama sabha meeting is conducted four times in a year. Due to the absence of adequate funds, absence of supervision and due to unwanted miscreants elements, service conditions of the Panchayat Secretaries as well as safety and security are affected and therefore, instant writ petition is filed for a mandamus, as stated supra.

4. During the course of hearing, when we posed a question as to whether how the service conditions of Panchayat

Secretaries would be affected, learned counsel appearing for the petitioner submitted that at times, disciplinary action is taken and Panchayat Secretaries are also suspended. Thus, according to him, service conditions of Panchayat Secretaries are affected, besides safety and security.

5. We are not inclined to accept the said contention.

6. Suspension is ordered by the higher authorities for any alleged misconduct, and the same cannot be protected.

7. Further, even if there is any interference in grama sabha meetings by any unwanted miscreants, it is always open to any person, to furnish adequate information to the Police or the superior authorities, under the Panchayat Raj System.

8. Let us consider few decisions on service and service conditions,

(i) In State of Madhya Pradesh v. Shardul Singh reported in 1970 (1) SCC 108, the Hon'ble Supreme Court, at Paragraph No.9, held as follows:

"9. The expression "conditions of service" means all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement and even beyond it in matters like pension, etc."

(ii) In The University of Cochin v. Dr.N.Raman Nair reported in 1975 (3) SCC 628, the Hon'ble Supreme Court, at Paragraph No.13, held as follows:

"The word "service" denotes various classes and categories of posts. It is obviously the widest class. A classification which puts the whole teaching staff in one class for purposes of applying the rule would seem unassailable. But, one which puts all classes and categories of service from the peons to Professors altogether may, by destroying the distinction between classes and categories of service seem to run counter to the words used in Section 6(2)."

(iii) In Dr.D.C.Saxena v. State of Haryana reported in 1987 (3) SCC 251, the Hon'ble Supreme Court, at Paragraph No.9, held as follows:

"9. The appellant, in desperation, put forward another plea, that the expression "terms and conditions of service" would not take within its ambit "tenure of service". In other words, his case was that the word "term" did not indicate the period of service and that therefore, the Government did not have the requisite authority to curtail his tenure. This plea was met by the respondents' counsel saying that the

word 'term' included the tenure of service also. Both sides invited us to dictionaries in support of their respective cases. We do not think it necessary to seek support from the dictionary for this purpose. The expression "terms of service" clearly includes tenure of service."

(iv) In Coal Mines Provident Fund Commissioner v. Ramesh Chander Jha reported in 1990 (1) SCC 589, the Hon'ble Supreme Court, at Paragraph No.7, held as follows:

"7. The word 'service' in Section 2(17)(h) must necessarily mean something more than being merely subject to the orders of government or control of the government. To serve means "to perform function; do what is required for".

(v) In Secretary, Central Board of Direct Taxes v. B. Shyam Sundar reported in 2001 (9) SCC 87, the Hon'ble Supreme Court, at Paragraph 9, held as follows:

"Under Section 14 of the Administrative Tribunals Act, 1985, the Tribunal has jurisdiction, power and authority in relation to "service matters". "Service matters" include remuneration (including allowances), pension and other retirement benefits. The reward amount was purely ex gratia payment. It is difficult to treat it as a condition of service. Further it is difficult to comprehend how such ex gratia payment can be treated as remuneration of the kind postulated by the Act."

9. Authorities are empowered to take appropriate disciplinary action, if any misconduct.

10. Omnibus prayer of the petitioner in a public interest writ petition, directing the fourth respondent viz., the District Collector-cum-Chairman, Kancheepuram District, to give protection to the service conditions of the Panchayat Secretaries, as well as their safety and security is wholly misconceived.

11. For the reasons stated supra, instant writ petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

mvs.

To

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Thandalam, Thiruporur Taluk
Kancheepuram District.

+1cc to Mr.P.Gurunathan, Advocate SR.73867
+1cc to the Government Pleader SR.73457

Writ Petition No.24387 of 2019

MP(CO)
CB(11/10/2019)

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