

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: 12.11.2019
CORAM :
The Hon'ble Mr.A.P.SAHI, THE CHIEF JUSTICE
AND
The Hon'ble Mr.JUSTICE SUBRAMONIUM PRASAD
W.P.No.30045 of 2019
and W.M.P.Nos.29971 and 29973 of 2019

1.R.Prakasam
2.R.Sutha
3.S.Ramesh
4.S.Sasikala
5.G.Kolandasamy
6.P.Mohanraj ... Petitioners

-vs-

1.The State of Tamil Nadu,
Rep. By its Chief Secretary to
the Government, Revenue and
Disaster Management Dept.,
Secretariat, Fort St. George,
Chennai 600 009.
2.The Tamil Nadu Public Services
Commission, Rep. By its Secretary
to the Govt., Secretariat,
Fort St. George, Chennai 600 009.
3.The Govt. of Tamil Nadu,
Rep. By its Secretary to the Govt.,
Personnel and Administrative Reforms
Dept., Fort St. George, Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India praying for issue of Writ of Declaration declaring that the Impugned Rule Annexure-X Rule 10 referred to in Rule 38(b) (iii) of the Tamil Nadu Ministerial Service Rules as unconstitutional.

For Petitioners : Mr.Naveen Kumar Murthi

For Respondents : Mr.P.Sivashanmugasundaram
Spl. Govt. Pleader

ORDER

(Order of the Court was made by The Hon'ble Chief Justice)

Heard Sri.Naveen Kumar Murthi, learned counsel for the petitioner and Sri.P.Sivashanmugasundaram, learned Special Government Pleader for the State.

2.The petition raises a challenge to Clause 10 of Annexure-X in reference to Rule 38(b)(iii) of the Tamil Nadu Ministerial Service Rules, relating to Village Administrative Officers, on the ground that the condition imposed in the said Rule making it compulsory for a Village Administrative Officer to reside in the same village where the officer has been appointed is a condition without taking into account the practical and pragmatic view in relation to the implementation of the said Rule, more particularly, viz-a-viz female officers.

3.We have considered the submissions raised, but we find that a public interest litigation was filed, that came to be decided by a Division Bench in the case of K.S.Vivekanandam vs. Chief Secretary, Government of Tamil Nadu, 2011 (5) CTC 515. In order to appreciate the ratio of the said judgment, we may extract paragraphs 4, 8 and 9 of the said decision. The same are gainfully reproduced hereinunder:-

"4.At this stage, we must mention that the nature of work of Village Administrative Officers inter alia is that they shall maintain Village Revenue Records, collect various taxes including Land Tax, sending report with regard to Community Certificate, Income Certificate, Nativity Certificate and assessment of property value. They are also required to discharge the duty of maintaining Birth and Death Registers, sending information about the fire accidents, floods, cyclone and other natural calamities to the superior officers, giving information to the Police with regard to murder, suicide and suspicious death and also to assist them in investigation. The Village Administrative Officers have also been assigned many other works, which could be discharged only when the Village Administrative Officers remain in the village.

....

8.From a bare perusal of the aforesaid instruction, a duty has been cast upon the District Revenue Officer, Revenue Divisional Officers and Tahsildar for strict enforcement of the instructions and for reporting the status to

the Government. They have also been requested to take Disciplinary action against the erring Village Administrative Officers. As submitted by the learned Government Pleader such instructions have been issued earlier also. It that is so, then why instructions have not been followed by the Village Administrative Officers and if they are, in fact, violating the instructions then why not disciplinary action be taken against the Tahsildar or the Revenue Divisional Officers or District Revenue Officer for not discharging their duties and for not monitoring the day to day work of the Village Administrative Officers.

9. Having regard to the instructions issued by the Government, we, therefore, dispose of this Writ 4 Petition with a direction that if the Village Administrative Officers are not strictly discharging their duties and if any Complaints are received, then disciplinary action may also be take simultaneously against the Superior Officers also for not supervising and enforcing their presence in the village. No costs. Consequently, Miscellaneous Petition is closed."

4. Apart from this, we also find certain observations made in the same effect in the Division Bench judgment of Bose vs. Addl. Chief Secretary, Chennai, (W.P.(MD) No.18510 of 2019), decided on 27.08.2019, where the Bench observed in paragraph 9 as follows:

"9. Thus, the Village Administrative Officers are entrusted with the onerous responsibility of attending to the basic needs and necessity of the residents of the village and in the light of the abovesaid rules and the order dated 16.6.11, made in W.P.No.7922/11, they have to reside in the village in which they are posted and discharge their duties also."

5. The aforesaid opinions expressed in a matter which is directly in relation to the issue involved herein, therefore, restrain us from virtually sitting in appeal over the said observations and directions, which take into account the necessity of the Rule being upheld in order to make it compulsory for a Village Administrative Officer to reside in the village. The same, as a matter of policy, may also be considered inviolable on any legal precept, but at the same time, what the learned counsel urges is the practical and

pragmatic aspect of the matter where, for example, a female officer is putting up her residence even at a short distance from the village would be subjected to disciplinary proceedings in the event the officer is found to be not residing in the same village itself.

6. Even though the purpose for which a Village Administrative Officer has been appointed and the functions that are carried out by such an officer under the Rules do require the presence of the Village Administrative Officer, and to that extent, the learned counsel for the petitioner also concedes that the presence of the Village Administrative Officer from 8.00 a.m. in the morning to 8.00 p.m. in the evening can be made compulsory, yet it is contended that keeping in view the practical aspects of the matter, certain concessions can be made in the shape of a relaxation by the Government or the very definition of the word 'reside' used in Clause 10 aforesaid be explained that may serve the purpose.

7. We are, therefore, not interfering with the matter as raised in exercise of our jurisdiction under Article 226 of the Constitution of India, but we make it open to the petitioner to represent such a cause illustrating any such practical or pragmatic difficulties which may require a re-visit in the light of what has been observed above and in the event such representation is filed, it will be open to the State Government to consider the same in accordance with law.

The Writ Petition is consigned to records. Consequently, W.M.P.Nos.29971 and 29973 of 2019 are closed. No costs.

Sd/-
Assistant Registrar (CS-IV)

// True Copy//

सत्यमेव जयते
Sub Assistant Registrar

sra

To

1. The Chief Secretary to Govt. of Tamil Nadu,
Revenue and Disaster Management Dept.,
Secretariat, Fort St. George,
Chennai 600 009.

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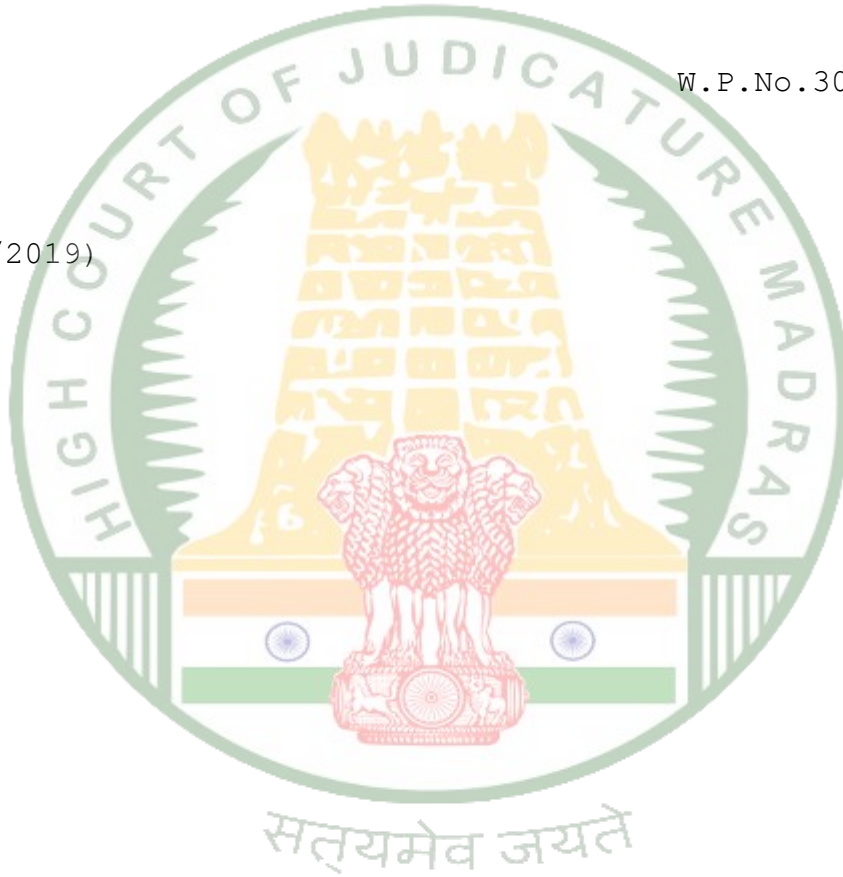
2.The Secretary to the Govt.,
Tamil Nadu Public Services
Commission, Secretariat,
Fort St. George, Chennai 600 009.

3.The Secretary to the Govt. of Tamil Nadu,
Personnel and Administrative Reforms
Dept., Fort St. George, Chennai 600 009.

+lcc to Mr.Naveenkumar, Advocate, SR.No.94052.
+lcc to Government Pleader, SR.No.94090.

W.P.No.30045 of 2019

JP (CO)
CSR(12/12/2019)



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