

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2019

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.33680 of 2019 and WMP No.34141 & 34142 of 2019

Murisha Fathima

... Petitioner

Vs.

1. The Additional Chief Secretary
Rural Development and
Panchayat Raj Department,
Secretariat, Chennai 09
2. The Director,
Rural Development and Panchayat Raj Department,
Directorate of Rural Development &
Panchayat Raj Department,
Panagal Building,
Chennai 600 015.
3. The District Collector,
Office of District Collector,
Erode District,
Erode 638 011.
4. Personal Assistant (Development) to the Collector,
Office of District Collector,
Erode District,
Erode 638 011.
5. Special Officer /Block Development Officer,
Village Panchayat,
Union Office, Gobichettipalayam,
Erode District 638 452

..Respondents

Prayer:- Writ petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus to call for the records pursuant to impugned notification in Na,Ka.No.3409/2019/AA2 dated 08.11.2019 issued by the 4th respondent and quash the same and consequently, direct the 4th respondent to appoint the petitioner to the post of Panchayat Secretary, Kadukkamapalayam Village.

For Petitioner : Mr.Ali Hassan Khan
For Respondents : Mr.P.S.Shivashamuga Sundaram
Special Government Pleader
for R1 to R4.
M/s.R.Janaki
Additional Government Pleader
for R5.

O R D E R

This writ petition has been filed challenging the notification issued by the 4th respondent calling for appointment to the post of Panchayat Secretary at Kadukampalayam Village.

2. It is seen from records that the petitioner had applied for the post of Panchayat Secretary during the earlier notification that was issued on 26.03.2018. The petitioner was not selected and hence, the writ petition was filed before this Court in WP No.20815 of 2019. In the said writ petition, the respondents have also filed a counter affidavit stating that the petitioner had fabricated the documents to show her residence within the village and based on the enquiry conducted, the petitioner was found not eligible and therefore, her candidature was rejected.

3. While the writ petition is pending, the 4th respondent has proceeded to issue the fresh notification on 08.11.2019 to fill up the post of Panchayat Secretary.

4. The learned counsel for the petitioner submitted that the present notification ought to have denoted the vacancy to BC Muslim quota, which has been kept unfilled. However, the present notification has been made for the MBC and De-notified community. Therefore, the learned counsel contended that the very basis on which the notification has been issued goes against the service rules and the list provided under schedule 5 appended to the Act.

5. Per contra, Mr.P.S.Sivashanmuga Sundaram, learned Special Government Pleader, appearing on behalf of the respondents 1 to 4 submitted that the petitioner has already made an attempt to participate in the appointment to the post of Panchayat Secretary and it was rejected and the same is now pending by way of writ petition before this Court. The learned counsel further submitted that unless the petitioner succeeds in the said writ petition, the petitioner will not have the locus standi to challenge the present notification and more particularly, since the credibility of the petitioner is in question in the writ petition.

4. This Court has carefully considered the submissions made on either side and also the materials available on record.

5. The petitioner had participated in the selection to the post of Panchayat Secretary in the year 2018. The candidature of the petitioner was rejected on the ground that the petitioner has fabricated documents to show her residence, within the village. If the petitioner succeeds in the writ petition, the petitioner will be entitled for the consequential relief and the petitioner will be considered for appointment to the post of Panchayat Secretary. Therefore, the petitioner will have to necessarily wait for the disposal of the writ petition. The petitioner cannot be permitted to stop the process that has been initiated by the 4th respondent for filling up the post of Panchayat Secretary.

6. The petitioner cannot be permitted to stall the process of appointment initiated by the 4th respondent. What the petitioner failed to achieve by way of interim order in the earlier writ petition which is pending in WP No.20815 of 2019, is now being attempted to be achieved by filing a fresh writ petition. This process adopted by the petitioner cannot be accepted.

7. In the result, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Chief Secretary
Rural Development and
Panchayat Raj Department,
Secretariat,
Chennai 09

2. The Director,
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Directorate of Rural Development
& Panchayat Raj Department,
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5. Special Officer /Block Development Officer,
Village Panchayat,
Union Office, Gobichettipalayam,
Erode District 638 452

+1cc to Mr.Ali Hassan Khan, Advocate, S.R.No.101799
+1cc to the Government Pleader, S.R.No. 101156

W.P.No.33680 of 2019

RP (CO)
GN(20/01/2020)



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