



BEFORE THE MADURAI BENCH OF THE MADRAS HIGH COURT

DATE : 27.08.2019

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**THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN
AND
THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P.(MD)NO.18510 OF 2019

AND

W.M.P.(MD) NOS.14910 & 14911 OF 2019

Bose

.. Petitioner

- Vs -

Addl. Chief Secretary/
Commissioner of Revenue Administration
Chennai.

.. Respondent

Writ Petition filed under Article 226 of the Constitution of India praying this Court to issue a writ of certiorari to call for the records of the impugned Letter No.Ser.V.(i)/7364/2016 dated 04.07.2019 issued by the respondent and Rule 10 of Annexure-X (referred to in Rule 38 (b) (iii)) of Tamil Nadu Ministerial Service Rules and quash the same.

For Petitioner : Mr. Shaji Chellam, for
Mr.RM.Arun Swaminathan

For Respondents : Mr. A.K.Baskarapandian, Spl. G.P.

ORDER

(Order of the Court was made by M.Sathyannarayanan, J.)

The petitioner claims that he is a retired Village Administrative Officer and also the founder of Tamil Nadu Village Administrative Officers' Association. It is to be noted at this juncture, though the petitioner claims that he is the founder of Tamil Nadu Village Administrative Officers' Association, in the affidavit filed in support of the writ petition, it is not specifically averred as to the registration number of the said association and under which provision of the Act, the said Association came to be registered.

2. The petitioner has also traced the history of the Village Administrative Officer and in para-4, enumerated the duties and



responsibilities of the Village Administrative Officers. In para-5 of the affidavit, the petitioner avers as under :-

"5. I submit that the Village Administrative Officers are unable to get rented houses in every year and they are also having family and children. Their children are studying in different locality. 90% of the Village Administrative Officers quarters (Residence-cum-Office) are not properly maintained by the respective administrations and P.W.D. All the District Collectors, District Revenue Officers, Revenue Divisional Officers, Thasildars, Revenue Inspectors having Camp Office (Residence-cum-Office). But without proper pucca building the respondent is compelling the Village Administrative Officers to reside in rented house based on the rule. The Government is paying Rs.1200 as HRA. This is not enough to the Village Administrative Officers to get rented house in 'A' & 'B' Villages."

3. Mr.Shaji Chellam, learned counsel, assisted by Mr.Arun Swaminathan, learned counsel appearing for the petitioner has drawn the attention of this Court to the affidavit filed in support of the writ petition as well as the typed set of documents and submits that a Division Bench of this Court, in the order dated 16.6.11 in W.P. No.7922/2011 (K.S.Vivekanandam - Vs - The Chief Secretary, Government of Tamil Nadu, Secretariat, Chennai), had dealt with the issue relating to the steps taken for directing the Village Administrative Officers in the State to reside in their village and it is relevant to extract the said observation as under :-

"..... According to Rule 10 of Annexure read with Rule 38 (b)(iii) of the Tamil Nadu Ministerial Service Rules, every person appointed to the post of Village Administrative Officer shall reside in the village under his charge and shall continue to reside in the said village so long as he holds the post.

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.

5. According to Rule 18-B of the Revenue Standing Order, the Village Administrative Officer will be primarily responsible for the protection and preservation of avenue trees on all public roads lying within the limits of their village and also for loss or damage due to felling or theft of trees, etc. As per the Standing Order earlier applicable to the Village Officers, it was provided that in case of negligence in discharge of duties, disciplinary action shall be initiated immediately. Rule 21 of the Revenue Standing Order also entrust a duty on the Village Administrative Officers that they will be held responsible for preventing and reporting encroachments.

6. We also took judicial notice of the fact that the Village Administrative Officers or the Doctors posted in the Primary Health Centres are not discharging their duties by residing in the village, rather they like to reside in the City or District Head Quarters and discharge their duties from there or in the alternative going to the Village few days in a month."

4. In the said order, the administrative instructions given by the Principal Secretary & Commissioner of Revenue Administration, Chennai - 5, appearing in Letter No.5(1)/31235/2011 dated 15.6.2011, has been extracted and having taken note of all the materials, the Division Bench of this Court had disposed of the said writ 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 taken simultaneously against the superiors, viz., 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.

5. The primordial submission of the learned counsel for the petitioner is that, in the light of the said judgment, assuming for the sake of argument that the Village Administrative Officers are not residing in the villages in which they have been posted, the only option left to the concerned authority is to take disciplinary action and in the absence of quarters/non maintenance of quarters, they cannot be compelled to stay in the same village and it is also leading to some difficulties in maintaining their families and, hence, prays for appropriate orders.



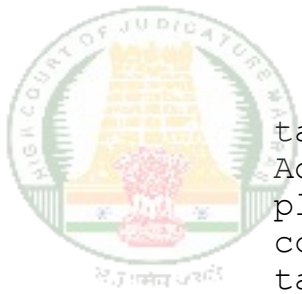
6. Per contra, Mr.A.K.Baskarapandian, learned Special Government Pleader, who accepts notice for the respondent, invited the attention of this Court to the order dated 1.7.19 made in W.P. (MD) No.13916/2019 (A.Selvagurunathan - Vs - The District Collector, Thanjavur & 4 Ors.) and submits that the writ petition was filed for directing respondents 1 to 3 therein to strictly instruct the 5th respondent, viz., the Village Administrative Officer of Melaiyur Revenue Village, Thiruvidaimaruthur Taluk, Thanjavur District, to stay within the residential jurisdiction of the said village by considering the representations dated 9.3.19 and 13.6.19 within a stipulated time and a learned single Judge of this Court (R.Suresh Kumar, J.) had taken note of the earlier orders as well as the administrative instructions and had disposed of the writ petition by issuing the following directions, as found in para-23 of the order, and it is useful and relevant to extract the same as under :-

"23. Therefore, in order to give a quietus to this issue, this Court, while disposing this writ petition, is inclined to give the following directions to the stakeholders and this shall be scrupulously followed and shall be strictly implemented :

1. That every District Collector shall constitute a Grievance Cell in the District level headed by an officer not below the rank of Revenue Divisional Officer; in the said grievance cell, two more officials in the rank of Tahsildar to be inducted;

2. The District collector shall give advertisement making note to the public that such grievance cell has been constituted in the district to receive complaints from the public against any Village Administrative Officer in that revenue district;

3. After constituting the grievance cell, which shall be given clear instructions by the District Collector concerned, that the grievance cell, on receipt of any complaints from anywhere in that revenue district against the Village Administrative Officer, within a period of three days, the Village Administrative Officer shall be summoned and after giving an opportunity of being heard to him, the grievance cell shall prepare a report and based on which, the grievance cell shall recommend suitable disciplinary action against the erring Village Administrative Officer, if they found any reason to recommend for disciplinary action. Such recommendatory report shall be forwarded to the concerned disciplinary authority, who shall immediately



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take disciplinary action against the Village Administrative Officer by framing charges and placing the Village Administrative Officer concerned under suspension. Such action shall be taken by the disciplinary authority, on receipt of the recommendatory report from the grievance cell, within a period of one week.

4. If action is taken against any erring Village Administrative Officer by the disciplinary authority as set out above by suspending him, during the pendency of the disciplinary proceedings, alternative arrangement shall be made by the posting authority in order to ensure that work in that village is not affected.

5. The necessary orders constituting such grievance cell by District Collector concerned shall be passed within a period of two weeks from the date of receipt of a copy of this order and compliance to that effect shall be filed by the District Collectors through the concerned Government Pleader before this Court during the next hearing and for the said purpose, this case shall be posted on 01.08.2019."

7. The primordial grievance expressed by the petitioner mainly pertains to para-5 of the affidavit, wherein complaints have been made as to the improper maintenance of the office as well as quarters.

8. A careful scrutiny, analysis and consideration of the materials disclose that in terms of Rule 10 of Annexure read with Rule 38 (b) (iii) of the Tamil Nadu Ministerial Service Rules, every person appointed to the post of Village Administrative Officer shall reside in the village and shall continue to stay in the village so long as he holds the post and as per Rule 18-B of the Revenue Standing Order, the Village Administrative Officer will be primarily responsible for the protection and preservation of avenue trees on all public roads lying within the limits of their village and also for loss or damage due to felling or theft of trees, etc., and the Revenue Standing Order also provides that in case of negligence in discharge of duties, disciplinary action shall be initiated immediately. Rule 21 of the Revenue Standing Order also casts a duty and obligation on the part of the Village Administrative Officer to prevent and report encroachment.

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.

10. It is also to be pointed out at this juncture that none of the serving Village Administrative Officer had approached this Court challenging the legality of the said rules and the petitioner, claiming that he is the founder of the Tamil Nadu Village Administrative Officers' Association, came forward to file this writ petition, styled as a public interest litigation, in respect of a service matter. It is also a well settled position of law that in service matters, public interest litigation is not maintainable by a third party.

11. Therefore, this Court is of the considered view that this writ petition is devoid of merit and substance and it is liable to be dismissed. However, this Court, taking into consideration the grievance expressed by the petitioner in para-5 of the affidavit, directs the respondent to take into consideration of the same and take immediate and necessary steps to alleviate the said grievance.

12. This writ petition is dismissed with the aforesaid observation. Consequently, connected miscellaneous petitions are also dismissed. However, there shall be no order as to costs.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar

To

Addl. Chief Secretary/
Commissioner of Revenue Administration
Chennai.

+1 CC to M/s.SPL GP (SR-84001[F] dated 28/08/2019)

W.P. (MD) NO. 18510 OF 2019
27.08.2019

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