

**HON'BLE THE CHIEF JUSTICE SRI THOTTATHIL B. RADHAKRISHNAN
AND
HON'BLE SRI JUSTICE A. RAJASHEKER REDDY**

WRIT APPEAL No.1465 OF 2018

JUDGMENT: *(per the Hon'ble the Chief Justice Sri Thottathil B. Radhakrishnan)*

We have heard the learned counsel for the appellants in this intra Court appeal against an interlocutory order by which the learned Single Judge confined it to Mahabubnagar District by modifying the stay granted in the Writ Petition relating to the services of the Panchayat Secretaries in various Districts. We have also heard the learned Government Pleader for the Department of Panchayat Raj (Services).

2. The writ appellants are the unofficial respondents. The writ petitioners were directly recruited as Panchayat Secretaries Grade-IV. Even as noted in the impugned interlocutory order, such agreement was in 2014. The unofficial respondents were already working on deputation from other services from 2002 onwards. It appears that during the period between 2002 and 2014, the service was made as District-wise units and process of regularization of all persons, who are already working, was being proceeded with in different districts. In the Writ Petition, there was an influential order forbearing such exercise. Through the impugned interlocutory order, the learned Single Judge modified and confined to the District of Mahabubnagar.

3. The impugned interlocutory order itself notices that the unofficial respondents were appointed in their respective departments and redeployed to Panchayat Raj Department long ago whereas the writ petitioners entered into services in 2014. It was also noticed that therefore, at the instance of the writ petitioners, the unofficial respondents in the writ petition cannot be deprived of their right for retrospective absorption and claim for further elevation of status. The learned Single Judge also noted that it is not in dispute that the rules governing the post of Panchayat Secretaries now prescribe the minimum qualification of graduation and this rule is in force by the time the orders were passed by the Government through G.O.Ms.Nos.70 and 71 dated 27.10.2017 and G.O.Ms.No.32 dated 08.06.2018. It is also not in dispute that by the time those orders were passed, the writ petitioners are in service. No procedure was followed and no person was put to notice before issuing the impugned orders. Retrospective regularization and other matters may be relevant while recasting the seniority in the final seniority list. It will not be administratively convenient to order stay of such exercise in relation to one District while permitting the other Districts to carry on with the process. That decision notwithstanding the unofficial respondents in the writ petition, who are the appellants herein, as rightly noted by the learned Single Judge, cannot be deprived of their right for retrospective

regularization and further elevation of status. This is the position at least in the interregnum till a final decision is taken on judicial review as regards the inter se dispute between the writ petitioners and the unofficial respondents in the writ petition regarding their eligibility to be identified against any particular slot in the gradation list or seniority list even if it is to be maintained on district-wise basis.

4. For the aforesaid reasons, this Writ Appeal succeeds and the impugned interlocutory order is liable to be vacated.

5. The Writ Appeal is allowed and the impugned interlocutory order is vacated. It is clarified that issues between the parties will stand left open for consideration in the writ petition and any observation made in this judgment and in the impugned interlocutory order will not stand in the way of the parties raising all contentions in the writ petition.

6. Pending miscellaneous petitions, if any, shall also stand disposed of. There shall be no order as to costs.

THOTTATHIL B. RADHAKRISHNAN, CJ

A. RAJASHEKER REDDY, J

Date: 07.03.2019
kvni