

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2020

CORAM :

The Hon'ble Mr.AMRESHWAR PRATAP SAHI, THE CHIEF JUSTICE

AND

The Hon'ble Mr.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.A.No.510 of 2020  
and CMP No.7479 of 2020

K. Janaki ... Appellant/Petitioner

-vs-

1. The District Collector,  
Cuddalore District,  
Cuddalore.

2. The Assistant Director,  
Village Panchayat,  
Cuddalore.

3. The Assistant Director,  
Village Panchayat,  
Vridhachalam.

4. The Block Development Officer,  
Nallur,  
Cuddalore District

.. Respondents/Respondent

Appeal filed under Clause 15 of the Letters Patent against the order dated 04.06.2020 in W.P.No.7866 of 2020 on the file of this Court.

W.P.No.7866 of 2020:

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorari to call for the records pertaining to impugned order passed by the 4th respondent in proceedings No.Na.Ka.No.Aa1/1537/2019 dated 16/03/2020 and quash the same as illegal arbitrary and violative of audit alteram partem and article 14, 15, 16, 17 and 21 of constitution of India.

For Appellant

: Mr.K. Anbuselvan

For 1<sup>st</sup> Respondent

: Mr.Jayaprakash Narayanan  
State Govt. Pleader

### JUDGMENT

(Judgment of the Court was delivered by The Hon'ble Chief Justice)

This is a Writ Appeal questioning the judgment of the learned Single Judge dated 04.06.2020, where a challenge has been raised to a transfer order, which was not entertained on the ground that the same being an administrative function does not require interference, inasmuch as it is neither violative of any statutory Rules, nor is tainted with malafides.

2. The appellant's contention was that firstly, the appellant was not being treated fairly inspite of her placement, which was motivated by communal feelings and therefore, there was mala fide intention behind the transfer order. Secondly, the transfer order has been given effect to within four months from the date of appointment. Thirdly, there was no valid and substantial reason at all to transfer. For this, learned counsel relied on Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service ) Rules, 2013, which is extracted hereunder:-

"11. Transfer: (1) Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.

(2) Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned. Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner/

Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector”.

3. The contention is that the transfer order could be made only on administrative grounds supported by valid reasons and after proper enquiry by appropriate authorities concerned. Learned counsel contends that neither any enquiry was conducted, nor any reason was recorded in the impugned order of transfer.

4. This Court in a Division Bench judgment dated 27.11.2019 in W.A.No.3867 of 2019 had an occasion to consider the impact of the said Rule and in spite of entertaining the appeal, disposed of the same directing the competent authority to pass a separate order indicating reasons for the transfer, if at all within a specified period.

5. We find, on measuring the arguments advanced and weighing them on the principles as discussed by this Court noted above, that it would be in the interest of justice that the competent authority viz., fourth respondent herein, who passed the order of transfer, shall reconsider the issue in the light of the above and pass an order in accordance with Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service ) Rules, 2013, within ten days from the date of presentation of certified copy of this order.

6. The writ appeal is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

s/d-

Assistant Registrar (CS-III)

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Sub-Assistant Registrar

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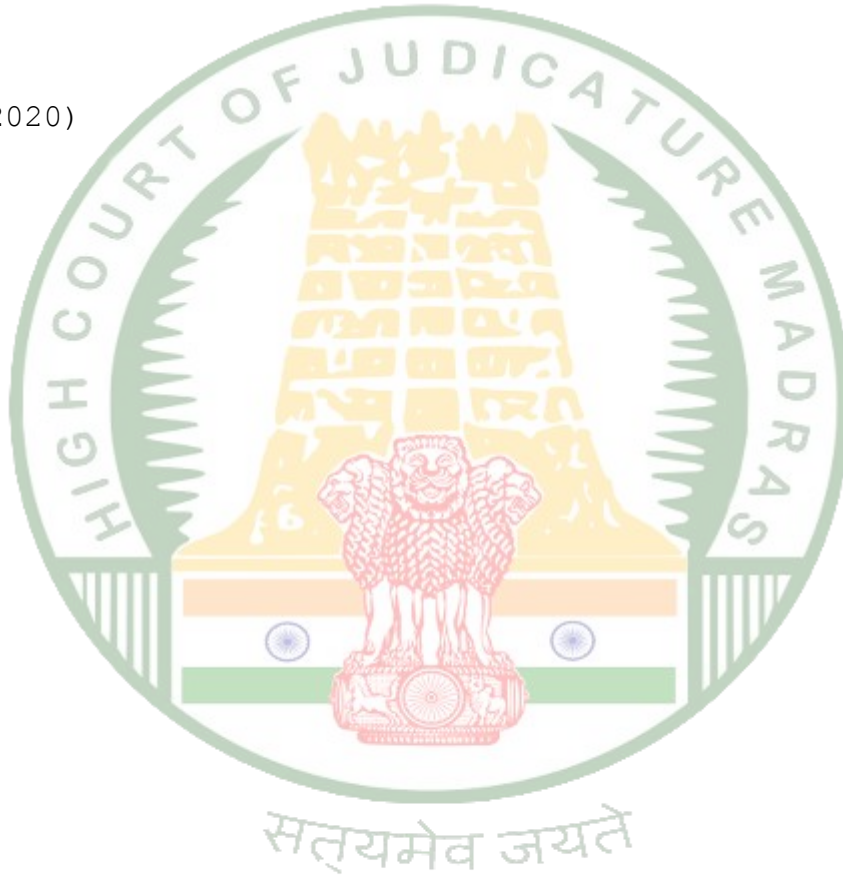
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SP(31/07/2020)



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