

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 10.02.2020
CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.No.34267 of 2019
and
WMP No.34961 of 2019

M. Arivazhagan

.. Petitioner

.v.

1.District Collector,
Nagapattinam District.

2.The Block Development Officer,
Kuttalam, Nagapattinam District.

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 2nd respondent in his notification in Na.Ka.No.3800-2019-Aa-1 dated 08.11.2019 and quash the same and consequently direct the respondents to allow the petitioner to discharge his duties as Secretary in Perumal Kovil Village Panchayat, Kutthalam Panchayat Union or any other Village Panchayat within the District of Nagapattinam.

For Petitioner : Mr.S.Arokia Maniraj

For Respondents : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

W E B C O P Y
O R D E R

This Writ Petition has been filed challenging the selection process that has been initiated by the 2nd respondent to fill up the post of Panchayat Secretary.

2.The case of the petitioner is that he was working as a Panchayat Secretary in the year 2013, he met with an accident and sustained head injuries. The petitioner was taking treatment in the Government Hospital. The petitioner completely recovered only during June 2019. After recovery, the petitioner approached the respondents to permit him to join the service. The petitioner also made a representation to the respondents to permit him to resume the office. At

that point of time, it was stated that the petitioner has already submitted his resignation on 19.08.2013. According to the petitioner, he had not submitted any resignation letter and the services of the petitioner has not been terminated by the 1st respondent till date and therefore, the petitioner is entitled to continue inservice. In the meantime, the 1st respondent had sought for clarification from the 2nd respondent by his office memorandum dated 10.10.2019. Even before the enquiry was completed, a Notification came to be issued on 08.11.2019, to fill up the post of Panchayat Secretary. Aggrieved by the same, the present Writ Petition has been filed before this Court.

3.Heard Mr.S.Arokia Maniraj, learned counsel appearing on behalf of the petitioner and Mr.P.S.Sivashanmugasundaram, learned counsel appearing on behalf of the respondents.

4.The specific case of the petitioner is that he has not submitted any resignation letter and his services have also not been terminated and therefore, the petitioner is entitled to continue as Panchayat Secretary. Therefore, the petitioner has come before this Court challenging the Notification issued by the respondents calling for applications to fill up the post of Panchayat Secretary, which according to the petitioner is being held by him till date.

5.The petitioner had already given representations and the same was under consideration. In fact, the 1st respondent by his office memorandum dated 10.10.2019, had sought for clarifications from the 2nd respondent in this regard. Without concluding the enquiry, the respondents have proceeded to issue the Notification.

6.Taking into consideration the facts and circumstances of the case, there shall be a direction to the respondents to consider the claim made by the petitioner and come to a conclusion as to whether the petitioner had really given any resignation letter. Till the services of the petitioner ceases or is terminated, there is no question of issuing another Notification to fill up the post. Therefore, this must be first decided before going ahead with the Notification.

7.In view of the above discussion, there shall be a direction to the respondents to conclude the enquiry that has been initiated, pursuant to the representation made by the petitioner and pass appropriate orders within a period of four weeks from the date of receipt of copy of this order. Till then, the respondents are directed not to proceed further with the Notification dated 08.11.2019. After the orders are passed, depending upon the order, a decision shall be taken.

This Writ Petition is disposed of with the above directions. There shall be no order as to costs. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

KP
To

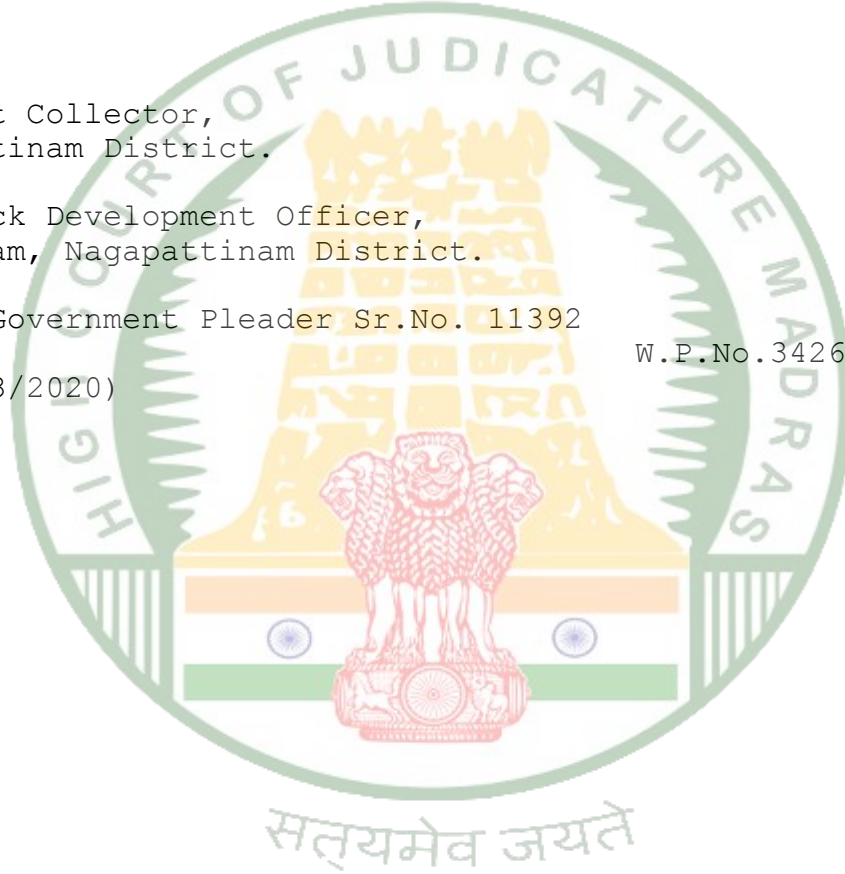
1.District Collector,
Nagapattinam District.

2.The Block Development Officer,
Kuttalam, Nagapattinam District.

+1 cc to Government Pleader Sr.No. 11392

W.P.No.34267 of 2019

A.SK(09/03/2020)



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