



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. (MD) .No.14247 of 2014

and M.P. (MD) No.1 of 2014

K.Masanam

... Petitioner

-Vs-

1.The District Collector,
Sivagangai District, Sivagangai.

2.The Block Development Officer (Panchayat),
Thiruppuvanam Panchayat Union,
Thiruppuvanam Post,
Sivagangai District.

3.The President,
Piramanur Village Panchayat,
Thiruppuvanam Panchayat Union,
Thiruppuvanam Post,
Sivagangai District.

4.M.Panchavarnam

5.H.Arumugam

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, to direct the first respondent to punish the respondents 2 to 5 for misusing their official capacity by creating forged documents in the name of Panchayat Administration with an intention to produce false evidence before this Court and obtained an order in their favour by misleading this Court and abusing the Judicial Process in W.P. (MD) No.6393 of 2011.

For Petitioner : Mr.M.Saravanakumar

For Respondents : Mr.S.Dhayalan
Government Advocate (for R1 to R3)

No Appearance (for R4)

Mr.R.Udhayakumar (for R5)

ORDER

The relief sought for in the present writ petition is to direct the first respondent to punish the respondents 2 to 5 for misusing their official capacity by creating forged documents in the name of Panchayat Administration with an intention to produce



false evidence before this Court and obtain an order in their favour by misleading this Court and abusing the Judicial process in W.P. (MD)No.6393 of 2009.

2.The petitioner states that he was appointed as Over Head Tank Operator in Piramanur Village Panchayat on 12.09.2001 and the appointment proposal was sent for approval of the Block Development Officer, by the Village Panchayat, in letter, dated 21.09.2007. However, during the year 2009, the then President of Piramanur Village Panchayat restrained the petitioner from discharging his official duties as Over Head Tank Operator and thereafter, the petitioner filed W.P. (MD)No.6393 of 2009 with a prayer to forbear the respondents from discontinuing his services.

3.With the connivance of the then President of Piramanur Village Panchayat one Mr.Arumugam/5th respondent was impleaded in W.P. (MD)No.6393 of 2009 and claimed that even before the appointment of the petitioner, he was appointed in the very same post by then President Mr.Alagu Chellasamy in proceedings Na.Ka.No.1/112/2001, dated 03.06.2001. With reference to the said appointment order, the third respondent, the then President filed a false counter affidavit stating that the fourth respondent was appointed by the then President Mr.Alagu Chellasamy on 03.06.2001. Recording the above statement, the appointment order issued in favour of Mr.Arumugam, the writ petition filed by the petitioner was dismissed on 24.08.2011. The petitioner filed W.A. (MD)No.507 of 2013 and the said writ appeal is pending.

4.The petitioner filed an application under the Right to Information Act to furnish the copy of the Piramanur Village Panchayat Resolution No.15, dated 10.05.2001 passed by the then President Mr.Alagu Chellasamy. In view of the fact that the council was not functioning and the Panchayat is administered by the Block Development Officer. However, the respondents have not furnished the said resolution. Mr.Alagu Chellasamy was not a President on the date of issuance of appointment order to Mr.Arumugam/5th respondent.

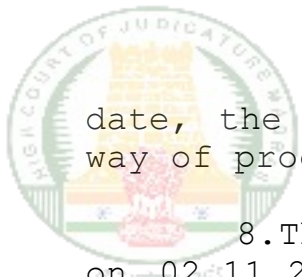
5.Under these circumstances, the learned counsel for the petitioner reiterated that Mr.Arumugam/5th respondent had colluded with the then President and created a forged appointment order and misleading the High Court. The order of appointment of the fifth respondent was issued on Sunday. The signatory, Mr.Alagu Chellasamy was not the President to Piramanur Village Panchayat on the date of issuance of appointment order in favour of the fifth respondent herein. On 03.06.2001, the Piramanur Village Panchayat was administered by the Block Development Officer, Thiruppuvanam, namely, one Mr.A.S.Ramu was holding the post of Block Development Officer, during the relevant point of time and subsequently, he



died. Under these circumstances, the writ petitioner states that appropriate action is to be taken.

6.The fifth respondent filed a counter affidavit categorically stating that his appointment was a genuine one. The learned counsel appearing for the fifth respondent/Mr.Arumugam strenuously contended that there was a clerical mistake in the appointment order of the fifth respondent received salary from 03.06.2002 onwards and the service register was opened. Subsequently, during the audit period, the then President Mr.Alagu Chellasamy issued a rectification order correcting the date of appointment. The learned counsel for the fifth respondent is of the opinion that President Mr.Alagu Chellasamy was serving as President of Piramanur Village Panchayat from 25.10.2001. The said President Mr.Alagu Chellasamy issued appointment order to the fifth respondent as Over Head Tank Operator of Piramanur Village. At the outset, it is contended that the appointment order of the fifth respondent was a genuine one and issued by the then President Mr.Alagu Chellasamy. The learned counsel for the fifth respondent reiterated that the earlier writ petition filed by the petitioner in W.P.(MD)No.6393 of 2009 was dismissed and the writ appeal in W.A.(MD)No.507 of 2013 is pending. The contempt application filed by the petitioner was also closed and therefore, the present writ petition cannot be entertained at all. The petitioner has not preferred any representation regarding the appointment of the fifth respondent before the authorities concerned and therefore, the present writ petition is to be dismissed as not maintainable.

7.The learned Government Advocate appearing on behalf of the respondents 1 to 3, pursuant to the orders of this Court, filed a report. The report filed by the Block Development Officer pursuant to the orders of this Court is to be considered. In view of the fact that the said report is filed, after conducting an enquiry with reference to the original records available in the Village Panchayat. The Block Development Officer in his report has stated that the present B.D.O took charge in the Thiruppuvanam Panchayat Union as Block Development Officer on 29.02.2020. He verified the available records with the Office. The Block Development Officer came to understand that the fifth respondent, namely, Arumugam S/o. Kandhan was appointed by way of resolution passed in the Village Panchayat by the then President/third respondent. He verified the records and the date of issuing the order of appointment fall on Sunday and the office administration functioning under the supervision of the then Block Development Officer, namely, Mr.A.S.Ramu, died subsequently. It is an admitted fact that the local body election was announced and conducted in the State of Tamil Nadu in the month of October 2001. The then President was assumed his officer on 25.10.2001, as on



date, the order of appointment issued to the fifth respondent by way of proceedings, dated 03.06.2001 is bogus one.

8.The Block Development Officer appeared before this Court on 02.11.2020 with insufficient details and this Court directed the Block Development officer to verify the original records and file a detailed report on 25.11.2020. Pursuant to the orders of this Court, the Block Development Officer initiated appropriate action and he issued proceedings in Na.Ka.No.P3/2757/2014, dated 19.11.2020 to the President, Piramanur Village Panchayat and to take appropriate action as per the orders passed by this Court to cancel the appointment order of Mr.Arumugam, S/o Kandhan as Over Head Tank Operator in Piramanur Village Panchayat. Subsequently, a show cause notice was issued to the fifth respondent stating the fact that the appointment made on 03.06.2001 was illegal and an opportunity was given to the fifth respondent to submit his explanation within fifteen days from the date of receipt of the show cause notice. The fifth respondent also acknowledged the same on 20.11.2020.

9.The Block Development Officer in his report, further stated that he brought to the notice of the District Collector regarding the details of this bogus appointment in his proceedings, dated 19.11.2020. In this regard, Paragraph Nos.9 and 10 of the report of the relevant, which are extracted hereunder:-

"....9.It is further submitted that on stating the entire facts and circumstances as well as the order of this Court, I brought to the notice to the District Collector herein, the first respondent by way of request letter in Na.Ka.P3/2757/2014, dated 19.11.2020, stating that this Court took a serious view regarding the appointment of Arumugam S/o Kandan as OHT Operator is against law and the rules in force. The writ petition filed by the petitioner in W.P.(MD)No.6393 of 2011 came up for hearing the then President as well as the Block Development Officer produced bogus appointment order dated 03.06.2001, stating that one Arumugam S/o Kandan was already appointed by way of resolution passed by the Piramanur Village Panchayat. On perusing the counter affidavit as well as the appointment order of Arumugam S/o Kandan, the Hon'ble Court was pleased to dismiss the earlier writ petition in W.P.(MD)No.6393 of 2011. In the present case in W.P.(MD)No.14247 of 2014, the Hon'ble Court warrants necessary action should be taken in respect of cancelling the appointment order was issued to Arumugam S/o Kandan appointing him as OHT Operator. In this respect, I need better advice to take further

action



12. Accordingly, the following directions are issued:-

(i) The respondents 1 and 2 are directed to initiate all further actions by following the procedures including the disciplinary action against the officials, who all are responsible for the bogus appointment order, based on the report now filed before this Court by the second respondent, dated 26.11.2020;

(ii) The District Collector is directed to initiate all further actions regarding the issuance of bogus certificate by the then President and if there is any element of criminality is involved, then register an appropriate case before the police concerned.

13. With these directions, the writ petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RECORDS)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

sjj

To

1. The District Collector,
Sivagangai District, Sivagangai.

2. The Block Development Officer (Panchayat),
Thiruppuvanam Panchayat Union,
Thiruppuvanam Post,
Sivagangai District.

+1 CC to Mr.M.SARAVANA KUMAR, Advocate (SR-22858[F] dated 26/11/2020)

W.P. (MD) .No.14247 of 2014
26.11.2020

VR (CO)

KM (09.12.2020) 6P 4C