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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2021

CORAM:

THE HONOURABLE MR. JUSTICE S. VAIDYANATHAN

W.P.No.26641 of 2019

and WMP.Nos.26030 & 26032 of 2019

P. Sasikumar

... Petitioner

..Vs..

1. The State of Tamil Nadu
rep.by its Secretary to Government
Rural Development and
Panchayat Raj Department,
Secretariat,
Chennai.

2. The District Collector,
Villupuram District,
Villupuram.

3. The Special Officer/The Block Development Officer,
Panchayat Union, Olakkur,
Villupuram District.

4. M.Siva

... Respondents

Prayer:-

This Writ Petition is filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus calling for the records of the impugned notification issued by the 2nd respondent in Na.Ka.No.BD3/285/2018 dated 02.04.2018 and the consequential original order of appointment of the 4th respondent in proceedings in Na.Ka.No.Aa2/610/2018 dated 25.02.2019 and quash the same and consequently direct the 2nd respondent to appoint the petitioner to the post of Village Panchayat Secretary in Kadavambakkam Panchayat Office, Olakkur Block, Villupuram district.



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For Petitioner : M/s.K.M.Valsala

For Respondents : Mr.J.Pothiraj
Spl. Govt. Pleader for R1 & R2
Mr.L.M.Loganathan
Addl. Govt.Pleader for R3
Mr.V.Manoharan for R4

ORDER

This writ petition has been filed, seeking to call for the records of the impugned notification issued by the 2nd respondent in Na.Ka.No.BD3/285/2018 dated 02.04.2018 and the consequential original order of appointment of the 4th respondent in proceedings in Na.Ka.No.Aa2/610/2018 dated 25.02.2019 and quash the same and consequently direct the 2nd respondent to appoint the petitioner to the post of Village Panchayat Secretary in Kadavambakkam Panchayat Office, Olakkur Block, Villupuram district.

2. The petitioner has challenged the appointment order of the fourth respondent on two grounds; firstly, the petitioner has registered himself in the employment exchange and his name has got to be sponsored and selected and, secondly, that the person, who had issued the appointment order to R4 is not the competent Authority and hence the appointment order has to be interfered with.

3. I am unable to agree with both the contentions, firstly for the reason that as per the dictum laid down by the Supreme Court in the case of Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh vs. K.B.N.Visweshwara Rao and others, reported in (1996) 6 SCC 216, it is not mandatory to select candidates only through employment exchange and a proper advertisement has to be made in order to enable all the eligible candidates to participate and thereafter selection process has to be done. Since that has been done in the present case on hand, the first submission of the petitioner that he has to be sponsored only through employment exchange is rejected.

4. The second point canvassed by the petitioner that, the person, who had appointed the fourth respondent, is not a competent Authority, is not a valid ground to interfere with the selection in the light of the communication dated 02.01.2018 of the Additional Secretary to Government to the Director of Rural Development and Panchayat Raj Department, Chennai - 15. In the communication dated 02.01.2018, it has been categorically mentioned as under:

" 4) The Government have examined the case on the



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lines of the interim order dated 11.10.2013 in M.P.(MD). No.2 of 2013 in W.P.(MD).No.16884 of 2013, of the modified the interim order dated 19.04.2017 in M.P.(MD). No.2 of 2014 and 1 of 2015 in W.P.(MD).No.12032 of 2014 and M.P.(MD).No.2 of 2013 and 1 of 2015 in W.P.(MD). No.16884 of 2013 and WMP (MD).No.1166 of 2016 and 3240 of 2016 in W.P.(MD).No.1393 of 2016 on the line of the opinion of the Additional Advocate General - III, of Tamil Nadu, Madurai Bench of Madras High Court and the proposal of the Director of Rural Development and Panchayat Raj. After careful examination, the Government have directed to fill up the Panchayat Secretaries post on the following norms:-

i) Appointing Authority - That the appointing authority to the post of Panchayat Secretary shall be the Block Development Officer (Village Panchayats) / Special Officer of the Village Panchayats concerned and issuing the appointment orders can be made only in the name of the special officer concerned."

5. From the above, it is clear that since the Block Development Officer s/ third respondent in the present case on hand has appointed the fourth respondent, the second ground also fails. Hence, finding no merits in the writ petition, the Writ Petition is dismissed. No costs. Consequently connected miscellaneous petitions are also closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

dpq

TO

1. The Secretary to Government
Rural Development and
Panchayat Raj Department,
Secretariat,
Chennai.
2. The District Collector,
Villupuram District,
Villupuram.



3. The Special Officer/The Block Development Officer,
Panchayat Union, Olakkur,
Villupuram District.

+1cc to Mr.K.M. Valsala, Advocate, S.R.No.20274

+1cc to Mr.V. Manoharan, Advocate, S.R.No.19623

+1cc to the Government Pleader, S.R.No.20146

W.P.No.26641 of 2019
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LN(CO)
CT(15/07/2021)