



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.02.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)No.170 of 2012

and

M.P(MD)No.1 of 2012

M.Navaneetha Krishnan

... Appellant/Petitioner

Vs.

The Panchayat President,
Srimoolakarai Village Panchayat,
Srimoolakarai,
Thoothukudi District.

... Respondent/Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letters Patent to set aside the order, dated 23.11.2011 made in W.P(MD)No.1057 of 2010 on the file of this Court.

Prayer in WP(MD). 1057/ 2010 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF CERTIORARIFIED MANDAMUS calling for the records of the respondent pertaining to his order No. 1 dated 15.10.2009 suspending the petitioner from the post of Panchayat Assistant and quash the same and further directing the respondent to reinstate the petitioner in the above post without any loss of benefits arising out of the impugned order.

For Appellant : Mr.T.Sundaranathan

For Respondent : Mr.K.P.Narayana Kumar,
Special Government Pleader.

JUDGMENT

**(Judgment of the Court was delivered by
PUSHPA SATHYANARAYANA, J.)**

The Writ Appeal is directed against the order passed by the learned Single Judge in W.P(MD)No.1057 of 2010, dated 23.11.2011.

2.Originally, the said Writ Petition was filed by the appellant/writ petitioner to issue a Writ of Certiorarified Mandamus, to call for the records of the respondent pertaining to his Order No.1, dated 15.10.2009, suspending the appellant from the post of Panchayat Assistant and to quash the same and further



directing the respondent to reinstate the petitioner in the above-said post.

3.The appellant/writ petitioner was a Panchayat Assistant, who was suspended along with the Village President. Instead of filing an appeal before the District Collector under Section 202 of the Tamil Nadu Panchayats Act, 1994, the appellant had rushed to this Court.

4.The learned Single Judge had specifically stated that under Article 309 of the Constitution of India, the post of Panchayat Clerk is not a post coming under a constituted service. A Panchayat Clerk do not have the constitutional protection under Article 311(2) of the Constitution of India and the same has been created in terms of G.O.Ms.No.175.

5.When the powers are already conferred on the District Collector to suspend or cancel any resolution passed, order issued or licence or permission granted, it was open to the appellant to go before the District Collector. Curiously, the appellant had addressed to the District Collector on 02.08.2010 requesting him to cancel the order of suspension issued against him. In the meanwhile, on 18.07.2011, the Panchayat Union has resolved to cancel the order of suspension and permitted the appellant to join duty. On the same day, the communication was also issued to the appellant informing that the order of suspension was revoked and he was asked to join duty. Therefore, the prayer as sought for in the Writ Petition that the order of suspension has to be revoked, has already been complied with by the authority. As affirmed by the learned Single Judge, the appellant has made only the Panchayat President as a party and he has not even made the District Collector as a party to the proceedings. He is also not able to say what was happened to the representation given by him to the District Collector on 02.08.2010. As already the order of suspension was revoked and directed him to join duty, the prayer sought for in the Writ Petition has also become infructuous.

6.Though the appellant had complained that he was not allowed to join duty, inspite of the resolution, he has to work out his remedy in the manner known to law. A communication from the respondent, dated 22.07.2011 states that as per the resolution that the authorities had sent a proposal to the District Collector for the transfer of the appellant. Hence, till such time the order is received from the District Collector, he will not be allowed to join duty.

7.In the light of the above subsequent events, after filing a Writ Petition, the appellant has only to follow the procedure and approach the District Collector for whatever the relief he is seeking. As stated earlier, the District Collector is not made as a party to the proceedings, therefore, we are unable to give any direction. The appellant has to work out his remedy by pursuing the

<https://www.mca21.com/> services not in use, dated 22.07.2011.



8. In the light of the above, the Writ Appeal stands dismissed.
No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

ps

Note :

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

The Panchayat President,
Srimoolakarai Village Panchayat,
Srimoolakarai,
Thoothukudi District.

+2 CC to M/s.S.SITHARTHAN, Advocate (SR-7302[F] dated 25/02/2021)

+1 CC to M/s.SPL GP (SR-7863[F] dated 01/03/2021)

W.A(MD)No.170 of 2012
25.02.2021

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