

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 16.09.2021****CORAM:****THE HONOURABLE MR.JUSTICE S.S.SUNDAR****W.P(MD)NO.13247 of 2013****WEB COPY****A.S.Stalin****:Petitioner****.vs.**

- 1.The District Collector,
Ramanathapuram District,
Ramanathapuram.
- 2.The Block Development Officer,
(Commissioner),
Ramanathapuram Panchayat Union,
Ramanathapuram District.
- 3.The President,
Soorankottai Panchayat Board,
Ramanathapuram District,
Ramanathapuram.
- 4.Tmt.Kala,
President,
Soorankottai Panchayat Board,
Ramanathapuram District,
Ramanathapuram.

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned order bearing Na.Ka.Va.6/29314/2011, dated 10.06.2013 passed by the first respondent confirming the order dated 3.8.2012 passed by the third respondent in Na.Ka.No.001/2011 and to quash the same and consequently to direct the respondents to reinstate the Petitioner with all consequential benefits to the post of Panchayat Assistant (Panchayat Secretary).

For Petitioner	: Mr.J.Barathan for M/s.T.R.Jeyapalam
For Respondent-1	: Mr.M.Lingadurai Government Advocate
For Respondents 3 and 4	: Mr.Mohammed Imran for M/s.Ajmal Associates

O R D E R*********

<https://hcservices.ecourts.gov.in/hcservices/> The Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent, dated 10.06.2013, confirming the order passed by



the third respondent, dated 3.8.2012 and consequently to direct the respondents to reinstate the Petitioner into service with all consequential benefits to the post of Panchayat Assistant.

2.The facts are not in dispute in this case.

WEB COPY

3.Heard Mr.J.Barathan, learned counsel appearing for the Petitioner and Mr.M.Lingadurai, learned Government Advocate appearing for the first respondent and Mr.Mohammed Imran, learned counsel representing M/s.Ajmal Associates, appearing for the respondents 3 and 4 and perused the materials placed before this Court.

4.The Petitioner was appointed as Panchayat Clerk in the year 1999. Earlier, the Petitioner was terminated from service in the year 2001. The Petitioner filed Original Application in O.A.No.397 of 2007 before the State Administrative Tribunal. It was later transferred to this Court and taken on file in W.P(MD)No.8446 of 2007. The Writ Petition was subsequently, allowed and the Petitioner was directed to be reinstated in service.

5.It is the case of the Petitioner that he filed a Contempt Petition and that the Panchayat President has ultimately complied with the order, with great reluctance. It is the case of the Petitioner that though the Panchayat President has ultimately reinstated the Petitioner, she did not want to allow the Petitioner to continue in service. Immediately after the reinstatement of Petitioner, the Petitioner was suspended from service and it is the case of the Petitioner that only to harass the Petitioner, further proceeding was initiated against him. Stating that the President was determined to terminate the Petitioner from service once-again by making false allegations, the Petitioner did not participate through-out the enquiry proceedings. The charges against the Petitioner were in relation to his participation the Local Body Election in the year 2006. Ultimately, by order, dated 3.8.2012, the Panchayat President dismissed the Petitioner from service. Aggrieved by the order of the Panchayat President, the Petitioner preferred an appeal before the Appellate Authority namely, the District Collector. The Appellate Authority also dismissed the appeal by confirming the order of punishment on the ground that the Petitioner contested in the Local Body Election without resigning the post. Challenging the order of the first respondent confirming the order of the third respondent, the present Writ Petition is filed.

6.The learned counsel appearing for the Petitioner placed his arguments on the basis of prior proceedings by imputing mala-fides for initiating proceedings, immediately after reinstatement against the Petitioner. Though the learned counsel for the Petitioner is able to point out certain irregularities in the earlier round of litigation where the Petitioner was terminated from service in the year 2001, he is unable to point out any discrepancies in the



chronology of events and the facts recorded either in the order of the Panchayat President or of the first respondent.

7. In the counter affidavit filed by the second respondent, it is seen that the Petitioner was appointed as panchayat Assistant during his father's tenure as Panchayat President of Soorankottai Panchayat in the year 1999. Though the second respondent has placed on record certain facts, we are not concerned about the past conduct of the Petitioner. It is true that the Petitioner was terminated from service and that somebody was appointed in that place after the order of termination issued in favour of the Petitioner. However, this Court set aside the order of termination in the Writ Petition filed by the Petitioner in W.P(MD)No.8446 of 2007. During the pendency of the Proceedings, before the State Administrative Tribunal, the Petitioner admitted that he contested in the Panchayat Election held in the year 2006. During the period when he was terminated and the termination was challenged before the State Administrative Tribunal, the Petitioner probably thought that he can contest in the Local Body Election. After the order of termination was set aside by this Court, fresh proceedings were initiated. The Petitioner was appointed in the year 1999 and terminated from service in the year 2001. It is contended by the learned counsel for the Petitioner that the Petitioner was actually ousted from service in the year 2001 and some third party was appointed in his place. Since the Petitioner was not in duty, it was contended that the participation of the Petitioner in the Local Body Election will not affect his service. This Court is unable to accept the logic in the arguments made by the learned counsel for the Petitioner. The Petitioner challenged the order of termination before the State Administrative Tribunal and obtained an order in his favour setting aside the order of termination. As a matter of fact, this Court while setting aside the order of termination, has observed as follows:

'6. The second respondent denied the Petitioner employment in violation of the principles of natural justice, as neither charge memo was given nor enquiry was conducted. Therefore, the Petitioner is entitled to continue in service unless he is dismissed from service in accordance with law. The counsel for the Petitioner states that he continues in service.'

8. It is also to be noted that this Court allowed the Writ Petition by recording the fact that the second respondent has terminated the Petitioner from service as he has no power to remove the Petitioner from service as per Section 106 of the Tamil Nadu Panchayat Act. Hence there was a direction to the respondent to continue to engage the Petitioner in service until he is removed from service, in accordance with law. Therefore, the petitioner should be deemed to be in service though as per the earlier order, he was not given employment for a period till the writ Petition was disposed of.



9. When the Petitioner chooses to remain in employment, he ought not to have participated in the Local Body Election held in the year 2006. Since the Petitioner's participation in the Local Body Election, 2006 is admitted, this Court is unable to interfere with the order passed by the first respondent confirming the order of the third respondent. Accordingly, this Court finds no merit in the Writ Petition and the same is liable to be dismissed for the reasons stated above.

10. In the result, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (AE)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsn

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

1. The District Collector,
Ramanathapuram District, Ramanathapuram.
2. The Block Development Officer,
(Commissioner),
Ramanathapuram Panchayat Union, Ramanathapuram District.
3. The President,
Soorankottai Panchayat Board,
Ramanathapuram District, Ramanathapuram.

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-29509[F] dated 17/09/2021)

+1 CC to M/s.SPL. GP (SR-29592[F] dated 20/09/2021)

+1 CC to M/s.T.R.JEYAPALAM, Advocate (SR-29645[F] dated 20/09/2021)

W.P(MD)NO.13427 of 2013

16.09.2021