



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.09.2021

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S. SUNDAR

W.P. (MD).No.17290 of 2014

and

M.P (MD) Nos.1 & 2 of 2014

and

M.P (MD) No.1 of 2015

and

M.P (MD) No.2434 of 2016

S.Thangapandi

...Petitioner

Vs.

1.The District Collector/
Inspector of Panchayat,
Tirunelveli District,
Tirunelveli.

2.The Block Developmet Officer,
Village Panchayat,
Alankulam,
Tirunelveli District.

3.The President,
Mayamankurichi Village Panchayat,
Alangulam Panchayat Union,
Kuruvankottai-627 853
Tirunelveli District.

4.Murugan

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, for the issuance of Writ of Certiorarified Mandamus, to call for the impugned order passed by the 2nd respondent dated 14.11.2013 made in Na.Ka.No.B3/4279/2012 and quash the same as illegal and consequently, forbearing the respondents from removing the petitioner from the post of Panchayat Clerk in the office of the 3rd respondent.

For Petitioner

:Mr.S.Palanivelayutham

For R1 & R2

:M.Lingadurai

Government Advocate

For R3

:Mr.S.S.Thesigan

For R4

:Mr.Thalaimutharasu

for Mr.R.Jayaprakasam



ORDER

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the second respondent dated 14.11.2013 made in Na.Ka.No.B3/4279/2012 and forbearing the respondents from removing the petitioner from the post of Panchayat Clerk in the office of the third respondent.

2.It is the case of the petitioner that he was appointed as Panchayat Secretary on 05.03.2013 in the office of the third respondent. It is stated that by a resolution, the appointment of the petitioner was approved. It is also admitted by the petitioner that one Murugan, who was working as Panchayat Clerk in the office of the third respondent, was placed under suspension by the third respondent on 30.01.2013 and one Singaraj was appointed to hold the post of Panchayat Clerk as additional charge in the place of the said Murugan. Thereafter, the petitioner's name was considered for regular appointment and that the petitioner was appointed on 05.03.2013. By the impugned order, it is stated that the erstwhile Panchayat Clerk was removed from service as per the resolution of Village Panchayat council and that the said resolution was cancelled by the District Collector by proceedings dated 13.07.2013. It is further stated that the resolution appointing the petitioner as Panchayat Secretary, was cancelled and that the salary that was paid to the petitioner should be recovered.

3.The learned counsel appearing for the petitioner submitted that the respondent did not issue any notice to the petitioner, before passing the impugned order cancelling the resolution of Panchayat appointing the petitioner in service. The submission is not acceptable having regard to the peculiar facts.

4.It is admitted that one Murugan, was appointed earlier in service and that the resolution passed by the Panchayat Council cancelling the appointment, was stayed by this Court in a writ petition filed by the erstwhile employee. Based on the order of stay, the District Collector also through the Block Development Officer, informed the Panchayat not to appoint any one in the post of Panchayat Secretary. Despite the earlier order of the District Collector cancelling the resolution for removing the erstwhile employee, the petitioner was appointed by the third respondent, as if the post is vacant. Therefore, the petitioner has been illegally appointed and hence, he cannot continue in employment ignoring the orders passed by the District Collector.

5.The learned counsel appearing for the contesting respondent brought to the notice of this Court that the order of the District Collector cancelling the earlier resolution of Panchayat President is upheld by this Court in the writ petition filed by him. It is stated that the District Collector by order dated 13.07.2013



cancelled the resolutions, vide resolution Nos.142, 143 and 144. It is now stated by the learned counsel appearing for the second respondent in the counter affidavit that the resolution of the third respondent Panchayat was to suspend and to dismiss the erstwhile Panchayat Secretary from service. It is also stated that the President himself challenged the order of the District Collector cancelling the resolution of the third respondent. It is further stated that the writ petition filed by the Panchayat President was dismissed. Therefore, the learned counsel appearing for the fourth respondent submitted that the petitioner's appointment was not only illegal but also in utter violation to the order passed by this Court in the earlier writ petition filed by the Panchayat President.

6.Having regard to the sequence of events, this Court is of the view that the appointment of the petitioner is not only illegal but also contrary to the order passed by the District Collector, which was confirmed by this Court in the Writ Petition filed by the third respondent. The petitioner cannot take advantage of his illegal appointment. The petitioner has no right to be in the post, as the fourth respondent was supposed to work. This Court, in a case like this, cannot exercise its discretion in favour of the petitioner. The petitioner has come forward with this writ petition suppressing material facts. Hence, this Writ Petition is dismissed with a cost of Rs.2,000/-. The learned counsel for the petitioner is directed to pay the amount to the High Court Legal Services Committee, attached to this Bench, within a period of two weeks from the date of receipt of a copy of this order. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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/
Inspector of Panchayat,
Tirunelveli District,
Tirunelveli.



2.The Block Developmet Officer,
Village Panchayat,
Alankulam,
Tirunelveli District.

3.The President,
Mayamankurichi Village Panchayat,
Alangulam Panchayat Union,
Kuruvankottai-627 853
Tirunelveli District.

Copy to

The Officer in charge,
High Court Legal Services Committee,
Madurai Bench of Madras High Court,
Madurai

+1 CC to M/s.SPL.GP (SR-30346[F] dated 27/09/2021)

+1 CC to M/s.D.SELVANAYAGAM, Advocate (SR-30245[F] dated 24/09/2021)

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PS (CO)
KB(11.10.2021) 4P 7C