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W.P.No.10854 of 2005

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.12.2022

CORAM

THE HONOURABLE Mrs. JUSTICE J.NISHA BANU

W.P.No.10854 of 2015
and M.P.No.1 of 2015
and W.M.P.No.22402 of 2017

V.Mayakrishnamurthi

.... Petitioner

vs

1. Personal Assistant (Development) to
District Collector,
Salem, Salem District.

2. Block Development Officer (Panchayats),
Thalaivasal, Attur Taluk,
Salem District.

3. N.Perumal
(R.3 impleaded as per Order dated 07.08.2017
in MP No.2 of 2015 in WP No.10854 of 2015)

.. Respondents

Writ petition filed under Article 226 of the Constitution to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the order passed by the 2nd respondent in his Proceedings Na.Ka.No.2982/2014/Thi2 dated 10.09.2014 and quash the same and direct the respondents to confer all the consequential benefits.

For Petitioner : Mr.V.Sivalingam
for M/s C.S.Associates

For Respondents : Mr.S.Ravichandran
Additional Government Pleader for R1
Mr.P.Chinnadurai for R2
Mr.C.Prakasam for R3



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ORDER

Challenging the order of suspension order passed by the 2nd respondent, the petitioner has filed this writ petition and he also seeks for a direction to the respondents to confer all attendant benefits.

2. Heard the learned counsel for the petitioner, the learned Additional Government Pleader appearing for the first respondent and the learned counsel appearing for the second and third respondent. This Court also perused the materials available on record.

3. The case of the petitioner is that he was appointed as Panchayat Clerk in Puliankurichi Village Panchayat on 01.12.2002 which was re-designated as Panchayat Secretary. The Panchayat Secretary has no independent power except to implement the order passed by the Board President or Vice President. While so, he was placed under suspension on 10.09.2014 on the ground that in the allotment of houses under the Group Housing Scheme for the year 2013-2014, ten houses meant for S.C. have been allotted to O.C. and thereby, Panchayat fund has been diverted and caused loss to the Panchayat. Thereafter, when the authorities came for site inspection they found that all those ten persons belong to O.C. and not S.C. and they have recovered the amounts from those beneficiaries who became beneficiaries of the Group Housing and thus, there is no loss to the Panchayat. Further, insofar as the selection of beneficiaries is concerned, it depends upon the sanction of house allotment to various categories i.e., O.C., B.C., and S.C., by the District Collector and the same will be placed before the Grama Sabha and the beneficiaries will be selected. Under the Scheme, the Government will disburse Rs.1.20



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lakhs and the remaining amount is to be spent by the beneficiary and construct the house and in that process, the petitioner has no role to play, but he was suspended by the 2nd respondent who has no power or authority to place the Panchayat Secretary under suspension. As per Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 the competent authority to place the Panchayat Secretary under suspension is appointing authority viz., 1st respondent herein. Thus, the 2nd respondent has no authority to pass the impugned order. Hence, this writ petition is filed with the aforesaid relief.

4. Learned counsel for the petitioner would submit though the petitioner was placed under suspension, in view of the interim order granted by this Court on 17.04.2015, he is continuing in service till date and no disciplinary proceedings has been initiated against the petitioner.

5. Learned counsel for the 2nd respondent would submit that the petitioner, for some personal gains had acted against the interest of public and Government, in collusion with the Panchayat President.

6. It is seen that the petitioner was placed under suspension on 10.09.2014 on the ground that ten houses meant for S.C. have been allotted to O.C. under the Group Housing Scheme for the year 2013-2014, and thereby caused loss to the Panchayat. However, when the authorities came for site inspection, they found that ten persons belong to O.C. and not S.C. and they have also recovered the amounts from the persons who became beneficiaries of the Group Housing and thus, there is no loss to the Panchayat. Further, insofar as the selection of beneficiaries is concerned, it depends upon the sanction



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of house allotment to various categories i.e., O.C., B.C., and S.C., by the District Collector and the same will be placed before the Grama Sabha and the beneficiaries will be selected and in that process, the petitioner has no role to play. However, he was placed under suspension by the 2nd respondent who has no power to do so. As per Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 the competent authority to place the Panchayat Secretary under suspension is the appointing authority, the 1st respondent herein. Further, there is no disciplinary proceedings initiated against the petitioner and the petitioner was also allowed to continue in service till date in view of the stay granted by this Court.

7. In view of the reasons stated above, this Court is of the view that the impugned order of suspension is liable to be set aside, accordingly, the same is set aside. The Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

19.12.2022

Index: Yes/No
Speaking/Non-speaking order
vsi

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J.NISHA BANU,J.

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