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W.P.No.5358 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10..08..2023

Coram

THE HON'BLE MR JUSTICE N.SATHISH KUMAR

Writ Petition No.5358 of 2022

and

W.M.P.No.5452 of 2022

Murugesh Reddy
S/o. Krishna Reddy,
Panchayat Secretry,
(under suspension)
Nakondapalli Panchayat,
Hosur Taluk, Krishnagiri District.

..... Petitioner

-Versus-

- 1.The District Collector,
Krishnagiri District,
Krishnagiri.
- 2.The Block Development Officer,
Village Panchayat,
Hosur, Krishnagiri District.
- 3.Mr.Gopala Kannan,
Deputy Block Development Officer,
Hosur, Krishnagiri District.

..... Respondent

Petition filed under Article 226 of The Constitution of India, praying to issue a Writ of Certiorari calling for the records relating to the impugned proceedings dated 19.01.2022 passed in Na.Ka.No.152/2022/E2 on the file of the 2nd respondent herein and to quash the same.



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For Petitioner : Mr.K.Govi Ganesan
For Respondent (s) : Mr.P.Balathandayutham,
Spl. Government Pleader
for R1
Mr.T.N.C.Kaushik
for R2
No appearance for R3

ORDER

Challenging the order of the 2nd respondent dated 19.01.2022 in Na.Ka.No.152/2022/E2 suspending the petitioner from the Secretaryship of Nakondapalli Panchayat, the suspended Secretary of the panchayat has come forward with the present writ petition.

2. The petitioner was the Panchayat Secretary of Nakondapalli Panchayat in Hosur Taluk and Krishnagiri District. He was placed under suspension for certain irregularities and misappropriation of funds. The order of suspension is challenged mainly on the ground that the 2nd respondent has no authority to suspend the petitioner and such an order could be passed only by the appointing authority viz., the Personal Assistant (Development) to the Collector. It is therefore the contention of the petitioner that the impugned order passed by the 2nd respondent without jurisdiction is not sustainable in law.

3. The 2nd respondent filed counter affidavit denying the averments in the



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writ petition and inter alia contending that the petitioner fabricated a deed of cancellation of gift deed executed in favour of the 2nd respondent by forging the signature of the 2nd respondent and presented the same before the Sub Registrar concerned for registration.

4. Heard both sides and also perused the records carefully.

5. The learned counsel for the petitioner has taken the court through the relevant provisions in the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rule, 2013 for short “the Rules”. [Published vide Notification No.G.O.Ms.NO.72, Rural Development and Panchayat Raj (E5), 9th July 2013 – No.SRO A-20/2013].

6. Rule 3 speaks of appointment to the service. Rule 4 states that the appointing authority for the post shall be the Personal Assistant (Development) to the Collector. Rule 10 deals with administrative control which sets out that every person appointed to the post shall be under the control of the Executive Authority of the Village Panchayat concerned. The Block Development Officer (Village Panchayats) shall exercise overall administrative control in respect of the post at the Panchayat Union level.

7. Rule 15 sets out authority competent to impose the penalties which reads as under:



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“15. Authority competent to impose the penalties.- The authority competent to impose any of the above penalties shall be the Personal Assistant (Development) to the Collector. However, the Block Development Officer (Village Panchayats) may initiate disciplinary action on the Village Panchayat Secretary and remit the papers to Personal Assistant (Development) to the Collector for passing final orders.”

8. Rule 17 deals with suspension which reads as under:-

“17. Suspension.- (1) The appointing authority may place a person holding the post under suspension, if it is necessary in public interest, where, -

(i) an inquiry into grave charges against him/her is contemplated or is pending; or

(ii) a complaint against him/her of any criminal offence is under investigation or trial.

(2) A person holding the post who is detained in custody whether on a criminal charge or otherwise, for a period longer than 48 hours shall be deemed to have been suspended under this rule.

(3) A review on extension of suspension of the



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persons holding the post shall be done by the Personal Assistant (Development) to Collector for every quarter.

(4) During the period of suspension, a person holding the post is eligible for subsistence allowance of 505 of the last pay and allowances drawn.”

9. The contention of the learned counsel for the petitioner that since there is a separate rule governing the suspension of the Village Panchayat Secretaries only by the appointing authority, the 2nd respondent (BDO) had no power to suspend the petitioner-Village Panchayat Secretary, cannot be countenanced for the reason that Rule 17 does not give absolute power only to the appointing authority, the word “may place a person holding the post under suspension, would indicate that power of suspension may also be exercised by the appointing authority thereunder. When the Block Development Officer is already vested with the power to initiate disciplinary action under Rule 15, this court is of the view that the Block Development Officer has power to place a person holding the post of Village Panchayat Secretary under suspension. Such power is inherent in the power granted under Rule 15. In such view of the matter, the order passed by the 2nd respondent placing the petitioner under



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suspension in terms of Rule 15 cannot be said to be illegal and without authority. Therefore, the order of suspension cannot be revoked on that sole ground. There is no other ground urged.

10. However, considering the fact that the petitioner was placed under suspension on 19.01.2022 and he has been under prolonged suspension for more than 18 months and the disciplinary proceeding is yet to reach its logical conclusion, the disciplinary authority is directed to review the order of suspension in terms of the guidelines set out in G.O.No.81, Human Resources Management (N) Department, dated 04.08.2022. The said exercise shall be completed within a period of one month from the date of receipt of a copy of this order. At any rate, there shall be a direction to the respondents to complete the disciplinary proceeding within a period of three months from the date of receipt of a copy of this order.

The writ petition is disposed of accordingly with the above directions.

No costs. Consequently, connected WMP is closed.

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Index : yes / no
Neutral Citation : yes / no
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N.SATHISH KUMAR.J.,

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