



W.P.No.19887 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.11.2023

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THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.19887 of 2021

J.Sathya

/vs/

Petitioner

1. The District Collector,
Thiruvavarur,
Thiruvavarur District.
2. The Block Development Officer,
Thiruthuraipoondi,
Thiruthuraipoondi Taluk,
Thiruvavarur District.
3. The Panchayat President,
Nedumbalam Village Panchayat,
Thiruthuraipoondi,
Thiruvavarur District.
4. Jeeva Barathi

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India to issue a writ of declaration to declare the appointment of the fourth respondent as a Village Panchayat Secretary for Nedumbalam Village Panchayat Thiruthuraipoondi Taluk, Thiruvavarur District, made by the third respondent is null and void and consequently direct the respondents 1 to 3



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to appoint the Panchayat Secretary by concluding the selection process as per the notification in Na.Ka.No.693/2018/Aa5 dated 09.11.2019 by considering the claim of the petitioner for the post of Panchayat Secretary for Nedumbalam Village Panchayat, Thiruthuraipoondi Taluk, Thiruvarur District.

For Petitioner ... Mr.K.Kasinatha Bharathi
For Respondents ... Mr.T.Chezhiyan
Additional Govt. Pleader for R1 to R3
Mr.S.Arivazhagan for R4

ORDER

The petitioner who was unsuccessful to get appointed to the post of Secretary of Nedumbalam Village Panchayat has filed this petition to declare the appointment of fourth respondent to the said post is illegal and to appoint the petitioner as Panchayat Secretary for Nedumbalam Village Panchayat.

2. Mr.K.Kasinatha Bharathi, the learned counsel for the petitioner attracted the attention of this Court to the order passed in the earlier Writ Petition filed by the petitioner in W.P.No.6807/2021, wherein it is stated as under:



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“ 3. When the matter is taken up for hearing, Mr.P.V.Selvakumar, learned Additional Government Pleader appearing for the first respondent submitted that even though the selection process has been complete, no one has been appointed and that the case of the petitioner has also been considered. Process is yet to be completed and once a decision is taken, the outcome of the decision, viz., selection of rejection, will be duly intimated to the petitioner.”

2.1. In accordance with the above order, the result of selection or rejection was not intimated to the petitioner; even though the respondents have stated during the above Writ proceedings that no one has been appointed so far, in reality they have appointed the fourth respondent themselves directly in contradiction to the respondent's submission made in the above Writ Petition. The further contention of the learned counsel for the petitioner is that Rule 3 (4) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service), Rules 2013 was not followed in the appointment of fourth respondent and hence the appointment of fourth respondent is null and void.

2.2. The second respondent has stated in his counter that the petitioner does not belong to Scheduled Caste community and hence the petitioner is not entitled to the post of Panchayat Secretary which is



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reserved for Scheduled Caste category; but in reality, the petitioner belongs to Scheduled Caste community; during the last hearing itself the above point was clarified by the respondents and they admitted that the petitioner belonged to Scheduled Caste community; equally, the fourth respondent also belongs to the same category.

3. Mr.T.Chezhiyan, the learned Additional Government Pleader for the respondents 1 to 3, submitted that all the rules of appointment are duly followed and the appointment of the fourth respondent was lawful and strictly in accordance with the rules; Rule 3(4) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service), Rules 2013 has already been stayed by this Court in the earlier order made in M.P.No.... in W.P.(MD) No.16884/2013 dated 11.10.2013 and hence the petitioner cannot seek recourse to the above rules; even if the rules are in force, they are applicable only when there is no elected Panchayat President; when there is an elected Panchayat President, there is no necessity to invoke the said rule even if it is presumed to be in force; the petitioner cannot apply the order passed in the W.P.No.6807/2021, because the said order has been passed during the



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admission stage and the submission of the Additional Government Pleader has been made without proper instructions.

4. The appointment order of the fourth respondent has been issued on 26.02.2021. Even as per the order dated 17.03.2021, the undertaking was given only on the outcome of the decision viz., selection or rejection will be duly intimated to the petitioner. The submission of the learned Additional Government Pleader as seen in the order cannot be construed that the petitioner has been selected and hence intimation will be sent to her accordingly. The only defeat on the part of the second respondent is his failure to give due intimation to the petitioner about the result of the selection process despite an undertaking to that effect has been given before the Court in W.P.No.6807/2021. Just because the Additional Government Pleader had mistakenly stated during one hearing that the petitioner does not belong to Scheduled Caste community and a counter has also been filed in such a fashion, it cannot be presumed that the respondents went on a presumption that the petitioner did not belong to Scheduled Caste because the said mistake has been subsequently corrected. The said error has been



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crept by mistake.

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5. On perusal of the records it is seen that the petitioner's community has been clearly mentioned and the fourth respondent and four other candidates of the same category have been considered for selection. So the argument of the petitioner that the respondent did not consider the petitioner as a person belonging to Scheduled Caste community during the selection process does not hold good.

6. Even though the counter has been filed by the second respondent in a callous manner without properly looking into records, the records show that the petitioner has submitted her application by clearly stating that she belongs to Scheduled Caste and during the selection process her name was also included under the said category only for consideration. The records does not show any patent illegality or irregularity in order to quash the impugned order and to grant the relief sought by the petitioner



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7. In the result, this Writ Petition is dismissed. No costs.

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Index: Yes / No

Speaking order / Non-speaking order
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R.N.MANJULA ,J.

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