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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.06.2023

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THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

WP(MD)No.8106 of 2023

and

WMP(MD)No.7473 of 2023

Panjavarnamkumar

... Petitioner

Vs.

1.The District Collector/
Inspector of Panchayats,
Virudhunagar District, Virudhunagar.

2.The Assistant Director of Rural
Development (Panchayats),
Virudhunagar District, Virudhunagar.

3.The Block Development Officer,
(Village Panchayats),
Tiruchuli Panchayat Union @ M.Reddiapati,
Virudhunagar District.

4.M.Bose

... Respondents

Prayer: Writ petitions filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari to call for the records relating to the transfer order Na.Ka.No.R2/5/2022 dated 29.03.2022 passed by the first respondent transferring the fourth respondent from Thiruchuli 1st Grade Panchayat and quash the same.



Petitioner : Mr.K.Seemaraj
For Respondents : Mr.K.Balasubramani,
Special Government Pleader for R1 & R2
Mr.R.Anand for R4

ORDER

Heard the learned counsel on either side.

2.The petitioner is the president of a local body. The fourth respondent is holding the post of Panchayat Secretary in the said panchayat. The panchayat president vide order dated 27.03.2023 suspended the fourth respondent from service. It was also sent to the fourth respondent on the same day. Proof has been enclosed. While so, the first respondent by the impugned order dated 29.03.2023 transferred the fourth respondent from Trichuli First Grade Panchayat to Mithilaikulam Panchayat. Challenging the same, this writ petition has been filed.



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3.I am satisfied that the petitioner had suspended the fourth respondent from service on 27.03.2023 itself. The fourth respondent has not questioned the same so far. A suspended employee cannot be transferred from one local body to another local body. This is because it will frustrate the very object for which the suspension order has been made. He has to hand over the charge which he is holding to the executive authority. If he is transferred, the power of the panchayat president itself will be defeated. It is for this reason, I granted an order of interim stay on 11.04.2023. When the matter was taken up for hearing, the learned Special Government Pleader appearing for the third respondent produced a copy of the order dated 19.05.2023 passed by the District Collector, Virudhunagar restoring the status quo ante. I am of the view that since the legal position that a suspended employee cannot be transferred from one local body to another local body is well settled, the order impugned in this writ petition is set aside. The subsequent proceedings dated 19.05.2023 are taken on record. This is without prejudice to the rights of the fourth respondent to question the order of suspension as well as the order dated 19.05.2023 passed by the District Collector/Inspector of Panchayats.



4.This writ petition is allowed. No costs. Connected

miscellaneous petition is closed.

26.06.2023

SKM

To

- 1.The District Collector/
Inspector of Panchayats,
Virudhunagar District, Virudhunagar.
- 2.The Assistant Director of Rural
Development (Panchayats),
Virudhunagar District, Virudhunagar.
- 3.The Block Development Officer,
(Village Panchayats),
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G.R.SWAMINATHAN, J.

SKM

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