



W.P.(MD)No.8556 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.04.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.8556 of 2023

and

W.M.P(MD)Nos.7863 & 7864 of 2023

K.Punithan

... Petitioner

Vs

- 1.The State represented by
The Additional Chief Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Municipal Administration,
Chennai – 600 028.
- 3.The Regional Director of Municipal Administration,
Madurai Region,
Kochadai,
Madurai – 625 016.
- 4.The Commissioner,
Periyakulam Municipality,
Periyakulam,
Theni District.

5.Sumitha Sivakumar

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of reversion passed by the second respondent in Roc. No.21982/2020/C2 dated 05.04.2023 and consequential communicated order issued by the third respondent in Endt. (Roc) 1434/2023/A dated 05.04.2023 and quash the same as illegal and consequently direct the respondents 1 to 3 to permit the petitioner to continue his service in the transferred service and issue the posting orders within the time limit fixed by this Court.

For Petitioner : Mr.S.Srinivasa Ragavan

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.K.Balasubramani
Special Government Pleader
for R.1 to R.3

Mr.G.Kaleeswaran
Standing Counsel for R.4

R.5 – Given up

ORDER

The learned counsel appearing for the petitioner states that the allegations made against the fifth respondent are not pressed for the present. The said submission is recorded.

2.I heard the learned counsel appearing for the petitioner and also the learned Additional Advocate General assisted by the learned Special



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Government Pleader appearing for the respondents 1 to 3. The petitioner was originally working as Assistant Section Officer in Secretariat. He was appointed as Municipal Commissioner in Periyakulam Municipality. By the impugned order dated 05.04.2023, he has been relieved from the post of Municipal Commissioner and he been reverted to Secretariat. The order is questioned on very many grounds. I need not go into all of them. Suffice to say that a bare reading of the order indicates that it is clearly stigmatic in nature. Such an order cannot be passed without holding an enquiry. The order passed by the Director of Municipal Administration on 05.04.2023 has subsequently been ratified by the Government vide G.O.(D)No.212 Municipal Administration & Water Supply (ME.1) Department dated 17.04.2023. On the sole ground of violation of principles of natural justice, the order dated 05.04.2023 as well as consequential G.O.(D)No.212 Municipal Administration & Water Supply (ME.1) Department dated 17.04.2023 are set aside. Since the orders have been set aside, the petitioner has to be necessarily posted back as Municipal Commissioner, Periyakulam Municipality forthwith. In normal circumstances, once an order is set aside on a technical ground, it is remitted to the file of the very same authority who passed the original order. Such an approach cannot be adopted in this case. Since the incumbent / Director of Municipal Administration appears to have predetermined the issue, it is for the



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first respondent to take a call in the matter. I am confident that the first respondent will approach the issue without being influenced by contents of the impugned order passed by the second respondent. Based on the records, the first respondent will take an independent call afresh. Such an order will be passed by the first respondent only after re-posting the petitioner as Municipal Commissioner, Periyakulam Municipality. Contentions available to both the sides are left open.

3.This writ petition is allowed on these terms. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

18.04.2023

Index : Yes / No
Internet : Yes/ No
NCC : Yes / No
MGA

Note: Issue Order Copy on 19.04.2023.

To

- 1.The Additional Chief Secretary to Government,
Municipal Administration and
Water Supply Department,
Secretariat,
Fort St.George,
Chennai – 600 009.
- 2.The Director of Municipal Administration,
Chennai – 600 028.



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3.The Regional Director of Municipal Administration,
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Madurai – 625 016.

4.The Commissioner,
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G.R.SWAMINATHAN, J.

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