



W.P.(MD)No.8010 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.02.2023

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.8010 of 2018

and

W.M.P.(MD)Nos.7612 & 7613 of 2018

U.Selvamuruges

... Petitioner

Vs.

1.The District Collector

Office of the District Collector,
Tuticorin District.

2.The Assistant Director of Village Panchayats,

Tuticorin,
Tuticorin District.

3.The Block Development Officer (Village Panchayat) /

The Special Officer,
Ottapidaram Panchayat Union,
Tuticorin District.

... Respondents



W.P.(MD)No.8010 of 2018

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PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to impugned notification, dated 26.03.2018 issued by the third respondent in his proceedings in Na.Ka.No.Thi.3/445/2018 and quash the same and consequently direct the respondents herein to conduct free and fair selection process in filling up of the post of Panchayat Clerk of Kollankinaru Village panchayat by following the rule of reservation.

For Petitioner : Mr.G.Thalaimutharasu

For Respondents : Mr.S.P.Maharajan
Special Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned notification, dated 26.03.2018 issued by the third respondent in his proceedings in Na.Ka.No.Thi.3/445/2018 and consequently direct the respondents herein to conduct free and fair selection process in filling up of the post of Panchayat Clerk of Kollankinaru Village panchayat by following the rule of reservation.



W.P.(MD)No.8010 of 2018

WEB COPY

2. The case of the petitioner is that the petitioner is the permanent

resident of Kollankinaru Village and studied upto 10th standard and also possessed with I.T.I. qualification and he registered his name in the Employment Exchange and the same was periodically renewed. The Village Panchayat Clerk post fell vacant in S.Kailasapuram Village panchayat, for which, one D.Kathiresan was appointed on 27.11.1996 based on the resolution passed by the Village Panchayat and the appointment order was issued to him and subsequently, the said Kathiresan was transferred from S.Kailasapuram Village to K.Shanmugapuram Village vide third respondent proceedings, dated 31.10.2013. Whiles, one Balamurugan, working as Panchayat Clerk in Kollankinaru Village Panchayat died on 29.05.2014. In view of the death of said Balamurugan, there was a vacancy arose for filling up the post of Panchayat Clerk of Kollankinaru Village Panchayat from 2014 onwards. The said post was earmarked for Scheduled Caste category as per the Government Rules and the said Kathiresan was transferred from K.Shanmugapuram to Kollankinaru Village Panchayat vide proceedings of the third respondent, dated 21.11.2016. Again, he was transferred from Kollankinaru to S.Kailasapuram as Additional charge of Panchayat Clerk



W.P.(MD)No.8010 of 2018

WEB COPY

vide proceedings of the third respondent, dated 09.01.2018. However, the above said proceedings was passed by the third respondent only in order to fill up the said post by changing the communal roster Backward Class instead of Scheduled Caste. However, to shock and surprise, the impugned notification was issued by the third respondent to call for application for one post of Panchayat Clerk in S.Kailasapuram Village from the public and the eligibility qualification is prescribed as 10th standard. Challenging the same, the present writ petition is filed.

3. The learned counsel for the petitioner submitted that admittedly the petitioner is a resident of Kollankinaru Village and the said village Panchayat Clerk was earmarked for Scheduled Caste community, however, in order to defeat the rights of a person, who residing in Kollankinaru Scheduled Caste people, one Kathiresan was transferred to Kollankinaru and given additional charge of S.Kailasapuram and subsequently, they issued notification to fill up the Panchayat Clerk post of Kollankinaru by changing the communal roster. Hence, the same is not sustainable one. Accordingly, he prayed for appropriate orders.



W.P.(MD)No.8010 of 2018

WEB COPY

4. The learned Special Government Pleader appearing for the respondents submitted that as ordered by the Director of Rural Development and Panchayat Raj vide Letter, dated 05.01.2018 and the District Collector, Thoothukudi District to fill up vacant position in the post of Panchayat Secretaries in Ottapidaram Panchayat Union, a notification was issued in the National Career Service Portal as well as in the District Portal calling for applications from eligible candidates by strictly following the mandates of G.O.Ms.No.175, dated 05.12.2006. The District Employment Officer, Thoothukudi was requested to send names of eligible persons as per their live register. In respect of Ottapidaram Block is concerned, there was only one post vacant in the post of Panchayat Clerk at S.Kailasapuram and the said post was reserved for Backward class as per 200 points roster by taking the District as a single unit and hence, they issued a public notification by fixing the eligibility criteria and thereafter, the said post was filled up. Hence, the petitioner has no legal right to insist that Kollangulam ought to have been notified as vacant and he is given posting, which is not sustainable one. Hence, he prayed for dismissal of the writ petition.



W.P.(MD)No.8010 of 2018

WEB COPY

5. Heard the learned counsel on either side and perused the materials available on record.

6. The facts in the present case are not in dispute. Admittedly, prior to G.O.Ms.No.173, and G.O.Ms.No.44, there is no procedure available for filling up the Panchayat Clerk post and thereafter, a procedure was created for filling up the post.

7. The grievance of the petitioner is that the petitioner is the resident of Kollankinaru Village and the said village Panchayat Clerk post is earmarked for Scheduled Caste in which one Kathiresan was appointed as Panchayat Clerk and in respect of Kollankinaru Village Panchayat one Balamurugan was appointed as Panchayat Clerk and he died in the year 2014 and the said post fell vacant, however, the said post was filled up by one Kathiressan, who was transferred from K.Shanmugapuram to Kollankinaru and without taking steps to fill up the Kollankinaru post, they have taken steps to fill up the S.Kailasapuram Village is not sustainable one, on the sole ground this petition is filed.



W.P.(MD)No.8010 of 2018

WEB COPY

8. Admittedly, Kollankinaru Village alone is earmarked for Scheduled Caste, whereas, Kailasapuram was not earmarked for Scheduled Caste. Hence, the claim made by the petitioner in respect of S.Kailasapuram is not sustainable one and further, the counter makes it clear, in respect of Ottapidaram Block is concerned, there was only one post vacant in the post of Panchayat Clerk at S.Kailasapuram and the said post reserved for Backward class as per 200 points roster by taking the District as a single unit. Accordingly, they issued a public notification by fixing the eligibility criteria and thereafter, the said post was filled up. Hence, the claim made by the petitioner is not sustainable one.

9. Accordingly, this writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

24.02.2023

Index : Yes / No
Internet : Yes / No



W.P.(MD)No.8010 of 2018

NCC : Yes / No
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W.P.(MD)No.8010 of 2018

M.DHANDAPANI,J.

RM

W.P.(MD)No.8010 of 2018

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