



W.P.(MD)No.8017 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.8017 of 2018

and

W.M.P.(MD)Nos.7614 & 7615 of 2018

R.Ragasutha

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep. by its Secretary to Government,
Rural Development and Panchayat Raj Department
Secretariat,
Chennai.

2.The Director of Rural Development and Panchayat Raj

O/o. the Director of Rural Development and
Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai 15.



W.P.(MD)No.8017 of 2018

WEB COPY

3.The District Collector

Virudhunagar District,
Virudhunagar.

4.The Personnel Assistant to District Collector (Development)

O/o. the District Collector Office,
Virundhunagar District,
Virudhunagar.

5.The Block Development Officer /

Special Officer (Village Panchayat)
O/o. the Block Development Office,
Vembakottai,
Virudhunagar,
Virudhunagar District.

... Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari calling for the records relating to the impugned order passed by the fifth respondent in his proceedings in Na.Ka.No.PiPu/1152/2018, dated 27.03.2018 and quash the same as illegal.



W.P.(MD)No.8017 of 2018

For Petitioner : Mr.Mohammed Suhail,
for M/s.Ajmal Associates

For Respondents : Mrs.K.Christy Theboral,
Additional Government Pleader

ORDER

This Writ Petition has been filed to quash the impugned order passed by the fifth respondent in his proceedings in Na.Ka.No.PiPu/1152/2018, dated 27.03.2018.

2. The case of the petitioner is that the petitioner belongs to MBC Category and she has passed 10th and Higher Secondary and she came to know that the fifth respondent had issued the impugned notification, dated 27.03.2018 inviting applications from eligible candidates for appointment to the post of Panchayat Secretary and as per the notification, the said post is earmarked for MBC category and the qualification prescribed therein is passing 10th standard. One of the essential qualification for appointment to the post of Panchayat Secretary is that the candidate should belong to the



W.P.(MD)No.8017 of 2018

WEB COPY

concerned Panchayat, to which, the appointment is made and the other candidates residing in the other Panchayat have become ineligible solely on account of residential qualification and the same is contrary and against Article 16(2) of the Constitution of India and depriving the rights of a person to participate in the selection process in respect of residency, is not sustainable one. Hence, the present Writ Petition is filed with the aforesaid prayer.

3. The learned counsel appearing for the petitioner would submit that present notification issued, fixing the eligibility criteria to participate in the selection process to the post of Panchayat Secretary, the candidate must be a resident of the particular village, is not sustainable one and the same is contrary to the provisions of Article 16(2) of the Constitution of India. Accordingly, he prayed for appropriate orders.

4. The learned Additional Government Pleader appearing for the respondents submitted that in the Department of Rural Development and Panchayat Raj, Tamil Nadu, over a period of time, there exists two distinctly



W.P.(MD)No.8017 of 2018

WEB COPY

different categories of posts and they differ in the mode of appointment and salary payment, the one being directly recruited by the Recruitment Agency such as Tamil Nadu Public Service Commission by following the regular process of recruitment. Insofar the other category is concerned, they are appointed by the Village Panchayat as well as by the Panchayat Union themselves, as per Section 84 of Tamil Nadu Panchayat Act, 1994. In the cases of Noon Meal Worker, Village Assistant etc., the rule of reservation as contemplated under Section 22 of the State and Subordinate Services is being scrupulously followed by treating the District as a Unit. In fact, the 200 point roster was adopted and published. The impugned notification was issued calling for applications from eligible candidates by strictly following the mandates of G.O.Ms.No.175, dated 05.12.2006. As per 200 point 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 challenge the notification. Hence, he prayed for dismissal of the writ petition.



W.P.(MD)No.8017 of 2018

WEB COPY

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

6. The facts in the present case are not in dispute. Admittedly, the petitioner belongs to MBC category and the petitioner is a resident of Keelaparithiyur Village, Ramanathapuram District. The present impugned notification is for the recruitment to the post of Panchayat Secretary, is also not in dispute.

7. The grievance of the petitioner is that the petitioner village is allotted for Backward Class Women (BCW) except Backward Class Muslims (BCM) and the petitioner belongs to Most Backward Class Community. Further, grievance of the petitioner is that the resident of the particular village alone is entitled to participate in the selection process and aggrieved by the same, the present writ petition is filed. However, apart from that, the respondents have to maintain the procedure for appointment to the post of Panchayat Secretary in terms of G.O.Ms.No.175, dated 05.12.2006. The appointment of Panchayat Secretary post is filled up after



W.P.(MD)No.8017 of 2018

following the due process of law, as contemplated in G.O.Ms.No.175, dated 05.12.2006 and G.O.(Ms)No.72 Rural Development and Panchayat Raj (E5) Department, dated 09.07.2013 and once a particular village is allotted to a particular communal rotation, after following the 200 points roster system, this Court cannot interfere with the said allotment of communal rotation. However, in respect of residents, they categorically stated that the resident of the other village given, if no eligible person is available in the particular village, the other persons are also entitled to participate and the similar issue was challenged before this Court in W.P(MD)No.16884 of 2013 and this Court confirmed the same and upheld the validity of the Government Orders and the very same issue was challenged before this Court as not sustainable one.

8. The reason for fixing the eligibility criteria for the same residents is that the Panchayat Secretary post is a very important post and that post is for sanctioning the Central Government Schemes and the State Government Schemes to reach the common man, who is a resident of that particular village. If the resident is given appointment to the particular post,



W.P.(MD)No.8017 of 2018

WEB COPY

it is easy for them to receive the benefits for that purpose the said condition was imposed, which cannot be termed as arbitrary. Hence, the prayer sought for in this writ petition cannot be granted.

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

24.02.2023

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



W.P.(MD)No.8017 of 2018

To
WEB COPY

- 1.The Secretary to Government,
State of Tamil Nadu
Rural Development and Panchayat Raj Department
Secretariat,
Chennai.
- 2.The Director of Rural Development and Panchayat Raj
O/o. the Director of Rural Development and
Panchayat Raj Department,
Panagal Building,
Saidapet,
Chennai 15.
- 3.The District Collector
Virudhunagar District,
Virudhunagar.
- 4.The Personnel Assistant to District Collector (Development)
O/o. the District Collector Office,
Virundhunagar District,
Virudhunagar.
- 5.The Block Development Officer /
Special Officer (Village Panchayat)
O/o. the Block Development Office,
Vembakottai,
Virudhunagar,
Virudhunagar District.



WEB COPY



W.P.(MD)No.8017 of 2018

M.DHANDAPANI,J.

RM

W.P.(MD)No.8017 of 2018

24.02.2023