



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **24.07.2023**

CORAM

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)No.706 of 2014
and
M.P.(MD)Nos.2 and 3 of 2014

Thanthaiengarpet Town Panchayat,
Musiri Taluk, Thiruchirapalli District,
represented by its President,
G.Rajalakshmi Ganesan

...Appellant

/Vs./

1.N.Ramachandran

2.The Director of Town Panchayats,
Directorate of Town Panchayats,
Kuralagam, Chennai-16.

3.The District Collector,
District Collectorate, Thiruchirapalli.

4.The Assistant Director of Town Panchayats,
Thiruchirapalli Division,
Office of the Assistant Director of Town Panchayats,
Thiruchirapalli District Collectorate,
Thiruchirapalli – 620 001.

5.The Executive Officer,
Thanthaiengarpet Town Panchayat,
Musuri Taluk, Thiruchirapalli District.

...Respondents



WEB COURT

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 18.03.2014 made in W.P.(MD)No.17557 of 2013 on the file of this Court.

For Appellant : Mr.V.Vijay Shankar
For R1 : Mr.K.Govindarajan
For R2 to R5 :Mr.T.Amjad Khan
Government Advocate

JUDGMENT

(Judgment of the Court was delivered by **R.VIJAYAKUMAR , J.**)

Third party to the Writ Appeal is the appellant herein. The first respondent herein had filed W.P.(MD)No.17557 of 2013 seeking a Mandamus directing the fifth respondent herein to appoint him to the post of Scavenger, which is reserved for Backward Community in the Town Panchayat,

2.According to the petitioner, he had attended the interview for the post of Scavenger falling under the Town Panchayat on 06.05.2013 and he belongs to Backward Community. He had further contended that though he had secured higher mark than the other candidates falling



WEB COPY

under the same communal rotation, appointment order was not issued to him and hence, he prayed for a Mandamus for issuance of appointment order.

3.The Executive Officer of the said Town Panchayat had filed a counter affidavit confirming the fact that the Writ Petitioner has secured higher marks and the Selection Committee comprising of Chairman, one Councillor and the Executive Officer have signed the mark statements. Based upon the said counter affidavit, the Writ Court was pleased to allow the Writ Petition directing the authorities to issue appointment order.

4.The learned counsel appearing for the appellant had filed a memo dated 24.07.2023 to the effect that the earlier President of the Town Panchayat namely C.Kumar is no longer the Panchayat President and the new President namely Mrs.Rajalakshmi Ganesan wishes to pursue this writ appeal. He had further requested for incorporating necessary amendment in the cause title. The said memo is taken on file. Registry is directed to carry out necessary amendments.



WEB COPY

5.The President of the said Panchayat, who was the Chairman of the Appointment Committee at the relevant point of time had filed the above Writ Appeal primarily on the ground that during the selection process, the mark statements have been deliberately tampered with by the Executive Officer by adding eight marks to the Writ Petitioner and therefore, he is not eligible to be appointed as a Scavenger under Backward class quota, whereas, one Venkatachalam alone has secured higher marks.

6.The learned Counsel for the appellant had contended that though the appellant was part of the Selection Committee, one Elavarasi, who was the Executive Officer of the said Town Panchayat, had tampered with the mark statements and for the said misconduct, she was suspended subsequently and therefore, he had prayed for allowing the Writ Appeal and to set aside the order passed by the Writ Court.

7.Per contra, the learned Counsel for the first respondent/Writ Petitioner had contended that the mark statements of the three candidates, who appeared for interview, has been annexed to the typed set of papers and perusal of those statements will clearly indicate that there is no



tampering of mark statements and in fact, the present appellant had signed in all those mark statements. It is not the case of the appellant that he had signed the mark statements before totalling the marks, that were allotted to each one of the candidates.

8. We have carefully considered the submissions made on either side and perused the materials available on record.

9. The only ground, on which the Writ Appeal has been filed by the President of the Town Panchayat, is that the Executive Officer of the Town Panchayat has tampered with the mark statements, which had resulted in awarding of higher marks to the Writ Petitioner than one Venkatachalam. Those mark statements have been placed on record in the typed set of papers at Page Nos. 29-31 and a perusal of those statements indicate that there is no tampering of marks awarded to any of the candidates. It is not the case of the appellant that before totalling of the marks allotted to each of the candidates, he had signed the mark statements. After going through the mark statements, we find that the Writ Petitioner had secured 36 marks and another candidate, Venkatachalam had secured only 28 marks and therefore, we do not find



that there is any tampering of the mark statement by the Executive Officer.

10.The learned Government Advocate relies on G.O.(Ms).No. 139, Municipal Administration and Water Supply (TP.1) Department dated 03.10.2022 to the effect that the post of Scavengers has now been outsourced and the question of appointing the Writ Petitioner would not arise. However, we are of the view that the said Government Order relates to the appointment of Scavengers on and from 03.10.2022 alone and will not affect the rights of the Writ Petitioner to get appointment, who was originally selected in the year 2013.

11.The learned Government Advocate appearing for the official respondents points out that the said Elavarasi, who was the Executive Officer of the Town Panchayat at the relevant point of time, was suspended for some other misconduct and it does not related to the appointment of the Writ Petitioner. Therefore, we do not find any merit in the Writ Appeal and the same stands dismissed. The fifth respondent/Executive Officer is directed to issue appointment order to the Writ Petitioner within a period of four weeks from the date of receipt



WEB COPY

of a copy of this order. No costs. Consequently, connected miscellaneous petitions are closed.

**[A.S.M.J.,] & [R.V.J.,]
24.07.2023**

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

cmr

To

- 1.The Director of Town Panchayats,
Directorate of Town Panchayats,
Kuralagam, Chennai-16.
- 2.The District Collector,
District Collectorate, Thiruchirapalli.
- 3.The Assistant Director of Town Panchayats,
Thiruchirapalli Division,
Office of the Assistant Director of Town Panchayats,
Thiruchirapalli District Collectorate,
Thiruchirapalli – 620 001.
- 4.The Executive Officer,
Thanthaiengarpet Town Panchayat,
Musuri Taluk, Thiruchirapalli District.



WEB COPY



DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

cmr

W.A.(MD)No.706 of 2014

24.07.2023