



W.P.(MD)No.9245 of 2018

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED:21.02.2023

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.(MD)No.9245 of 2018

W.M.P(MD).Nos.8548 and 8549 of 2018

M.Ramalakshmi

Vs.

... Petitioner

- 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 Department,
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 the District Collector (Development),
O/o.The District Collector Office,



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Virudhunagar District,
Virudhunagar.

5.The Block Development Officer/Special Officer
(Village Panchayat),
O/o.The Block Development Office,
Virudhunagar Panchayat Union,
Virudhunagar,
Virudhunagar District.

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records relating to the impugned order passed by the fifth respondent in proceedings in Na.Ka.No.700/2018/B2 dated 27.03.2018 and quash the same as illegal.

For Petitioner : Mr.H.Mohammed Imran
for Ajmal Associates

For Respondent : Ms.K.Christy Theboral
Additional Government Pleader



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ORDER

This Writ Petition has been filed to call for the records relating to the impugned order passed by the fifth respondent in proceedings in Na.Ka.No.700/2018/B2 dated 27.03.2018 and quash the same as illegal.

2. The learned counsel appearing for the petitioner would submit that the petitioner has filed the present writ petition challenging the Notification dated 27.03.2018 issued by the fifth respondent for filling up the post of Panchayat Secretary and in the said Notification, a specific clause has been stated that the candidates should belong to the concerned Panchayat and the said clause is contrary to the Article 16(2) of the Constitution of India. Challenging the same, the present writ petition has been filed.

3. The learned counsel would further submit that as per Article 16(3) of the Constitution of India, the Parliament alone has power to enact the law prescribing the residence as qualification for public employment. However, the fifth respondent has no power to fix the



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residential qualification for appointment to the post of Panchayat Secretary. The public employment cannot be denied on the ground of residency. Hence, the impugned Notification issued by the fifth respondent to the post of Panchayat Secretary is bad in law. Hence, he prays for passing appropriate orders.

4. The learned Additional Government Pleader appearing for the respondents would submit that as per G.O.Ms.No.175, Rural Development and Panchayat Raj (E5) Department dated 05.12.2006, it is mentioned that the candidate, who applied for the post of Panchayat Secretary, should be the resident of the concerned Panchayat and if no eligible candidate is available in that Panchayat, the candidates, who applied from the nearby Panchayats, can be appointed. The Notification has been issued based on the said Government Order and there is no deviation of law. Moreover, the petitioner has not given any application to the said post.



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5. Heard the learned counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents.

6. The facts in the present case are not in dispute. Admittedly, the fifth respondent has issued the impugned Notification dated 27.03.2018 inviting applications from the eligible candidates to the post of Panchayat Secretary and the same was published in Daily newspapers. As per G.O.Ms.No.175, Rural Development and Panchayat Raj (E5) Department dated 05.12.2006, the candidates, who applied for the post of Panchayat Secretary, should be the resident of the concerned Panchayat and if no eligible candidate is available in the concerned Panchayat, the candidates who applied from the nearby Panchayats will be appointed. Such a residential qualification is not against the Constitution of India and it is the only suitability for performing the duty of the Panchayat Secretary. Since the residential qualification was prescribed as per G.O.Ms.No.175, Rural Development and Panchayat Raj (E5) Department dated 05.12.2006, filing the present writ petition challenging the recruitment Notification is not sustainable one. Hence, the prayer sought for in the



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present writ petition cannot be granted.

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7. Accordingly, this Writ Petition is dismissed. No costs.

Connected miscellaneous petitions are closed.

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NCC:Yes/No

Index:Yes/No

Internet:Yes/No

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