



W.P.(MD).No.11680 of 2016

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.06.2023

CORAM

THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.11680 of 2016

and

**W.M.P.(MD).Nos.8960, 10635 of 2016
and 2513 of 2017**

K.Alagu Muthukumar

... Petitioner

Vs.

1.The Block Development Officer,
(Village Panchayat),
Sankarankoil,
Tirunelveli District – 627 756.

2.The President,
Poigai Village Panchayat,
Sankarankoil Taluk,
Tirunelveli District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records on the files of the second respondent pertaining to the impugned order dated 23.06.2016 and to quash the same and consequently direct the respondents to permit the petitioner to discharge his duties as Panchayat Secretary in second respondent Panchayat.



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W.P.(MD).No.11680 of 2016

For Petitioners : Mr.S.C.Herold Singh

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General,
Assisted by,
Mr.R.Suresh Kumar,
Additional Government Pleader.

ORDER

This Writ Petition is filed challenging the order dated 23.06.2016 and consequently direct the respondents to permit the petitioner to discharge his duties as Panchayat Secretary in second respondent Panchayat.

2. The petitioner based on the advertisement, submitted an application on 10.02.2016 for the post of Panchayat Secretary at the second respondent office. The petitioner attended the interview on 15.02.2016. After verification, the second respondent issued an appointment order dated 22.02.2016 and the petitioner joined the service on 22.02.2016. Through the impugned order, the second respondent has discharged the petitioner from service since as per G.O.Ms.No.72 dated 09.07.2013, the appointing authority is P.A. to District



W.P.(MD).No.11680 of 2016

Collector. Since the appointment order is issued by the Panchayat President, the President has discharged the petitioner from the service. The contention of the petitioner is that the G.O.Ms.No.72 was issued on 09.07.2013. The said G.O.Ms.No.72 was challenged in W.P.(MD)No.16884 of 2013 and the Hon'ble Court has granted interim stay of the said G.O. The petitioner was appointed on 22.02.2016. Since the said G.O.Ms.No.72 was stayed, then the Panchayat President is having power to appoint the petitioner, hence the discharge order cannot be sustained and prayed to allow the writ petition.

3. It is seen from the records that subsequently, the interim order granted in W.P.(MD)No.16884 of 2013 was modified, wherein it is held that the interim order is applicable only to persons who have filed writ petitions before this Court and the same is pending. Since the petitioner has filed this Writ Petition and hence the said interim order is applicable to the petitioner also. Therefore, this Court is of the considered opinion based on the interim order, the present writ petitioner's employment is covered under the interim order. Hence, the petitioner is entitled to such relief.



W.P.(MD).No.11680 of 2016

WEB COPY

4. The Learned Additional Advocate General appearing for the respondents submitted that the Appointing Committee alone is empowered to select the candidates and thereafter only the appointment order shall be issued. In the present case, the second respondent has issued advertisement, the committee had conducted the interview. In the present case, in the counter the 1st respondent has not denied the fact that the committee had conducted the interview.

5. Therefore, this Court is of the considered opinion that since the interview was conducted by Committee and the petitioner's appointment is valid, hence, there is no violation in the petitioner's appointment coupled with the fact that the petitioner's appointment is protected by the interim direction of this Court as stated supra. Therefore, the impugned order is quashed and this Court directs the second respondent to reinstate the petitioner into service. The petitioner is entitled to continuity of service without backwages. The petitioner shall join the post based on the order passed by the second respondent. The entire exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.



W.P.(MD).No.11680 of 2016

WEB COPY

6. In view of the above, this Writ Petition is allowed. No costs.

Consequently, connected miscellaneous petitions are closed.

23.06.2023

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

To

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(Village Panchayat),
Sankarankoil,
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2.The President,
Poigai Village Panchayat,
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W.P.(MD).No.11680 of 2016

S.SRIMATHY, J.

Nsr

W.P.(MD).No.11680 of 2016

23.06.2023