



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.08.2024

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THE HONOURABLE JUSTICE BATTU DEVANAND

Writ Petition No.8450 of 2018
& WMP No.10397 of 2018

M.Selvanathan

..Petitioner

vs.

1.The Chief Secretary to Government,
Rural Development & Panchayat Raj,
Secretariat,
Chennai-9

2.The Director,
Rural Development & Panchayat Raj,
Saidapet,
Chennai-15

3.The Inspector of Panchayat/The District Collector,
Perambalur District,
Perambalur.

4.The Special Officer,
Veppur Block/Block Development Officer,
Veppur,
Perambalur District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, to call for the



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records pertaining to the notification issued by the 4th respondent in Na.Ka.No.955/2018/B3 dated 26.03.2018 of as far as Ogalur Panchayat concerned and quash the same and consequently direct the respondents to issue fresh notification following the rule of reservation by following G.O(Ms) No.241, Personnel and Administrative Reforms(K) Department dated 29.10.2007.

For Petitioner : Mr.C.Sivakumar

For Respondents : Mr.V.Jeeva Giridharan, AGP
for RR1 to 3
Ms.K.Bhuvaneswari for R4

ORDER

This Writ Petition has been filed seeking for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the notification issued by the 4th respondent in Na.Ka.No.955/2018/B3 dated 26.03.2018 of as far as Ogalur Panchayat concerned and quash the same and consequently direct the respondents to issue fresh notification following the rule of reservation by following G.O(Ms) No.241, Personnel and Administrative Reforms(K) Department dated 29.10.2007.



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2. Heard the learned counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned counsel appearing for the 4th respondent and perused the material available on record.

3.The case of the petitioner is that he is the resident of Ogalur Village, Kunnam Taluk, Perambalur District. He belongs to schedule caste community. The 4th respondent herein issued a notification for the posts of Panchayat Secretary by 'direct recruitment' for the various panchayats in Perambalur District vide notification in Na.Ka.No.955/2018/B3 dated 26.03.2018. But the reservation and roster was followed in the said Panchayat is arbitrary and against G.O(Ms) No.241, Personal and Administrative Reforms(K) Department, dated 29.10.2007 and Tamil Nadu Government Servants(Conditions of service) Act, 2016.

4.The learned counsel for the petitioner submits that the Tamilnadu Government issued G.O. Ms.No.230, Rural Development Department dated 15.10.1996 permitting the Village President cum Executive Authority to appoint part time Panchayat Clerk and later, the post of Panchayat Clerk



was called as Panchayat Assistant. In the mean time, the Tamil Nadu Government introduced Tamil Nadu Village Panchayat Secretaries (Condition of Service) Rules, 2013 (in short, the Rules, 2013), wherein, the Panchayat Assistant was replaced as Panchayat Secretary and the procedure for appointment of Panchayat Secretary by way of direct recruitment was laid down under Rule 3. Since the Rules, 2013 deprive the power of the Village Panchayat President, some of the Panchayat Presidents filed Writ Petitions before the Madurai Bench of Madras High Court in WP(MD) No.16884 of 2013, etc., Initially, the Madurai Bench of this Court passed an interim order and subsequently, it is modified to certain extent in the Rules, 2013. In pursuant to the said order, to fill up the existing vacancies in respect of Village Panchayat Secretaries, the Rural Development and Panchayat Raj(E5) Department issued a letter (Ms) no.1 dated 02.01.2018, wherein, it has been stated that the Appointing Authority shall be the Block Development (Village Panchayat)/Special Officer of the Village Panchayat concerned. Based on the said clarification, the 4th respondent issued notification to fill up the vacancies existing in the various Panchayats, including Ogalur Panchayat.



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5. The learned counsel further submitted that the 4th respondent has not followed the Rule of reservation as per G.O(Ms) No.241, Personal and Administrative Reforms(K) Department dated 29.10.2007 and Tamil Nadu Government Servants (Conditions of service) Act, 2016 as it is granted 200 point roster system, wherein, the first turn goes to General Turn. But without following the 200 point roster prescribed for the reservation, the 4th respondent issued notification illegally.

6.The learned counsel for the petitioner further contends that the notification issued by the 4th respondent is liable to be set aside as it is issued without following the Rule of reservation particularly, for not following 200 point roster as provided under G.O(Ms) No.241, Personal and Administrative Reforms (K) Department dated 29.10.2007. He further submitted that the 4th respondent issued notification without considering that each Village Panchayat concerned shall be the Unit for appointment of vacancies in village panchayat since the Special Officer of the Village Panchayat is the appointing authority for the post of Village Panchayat Secretary and as such, the notification is liable to be set aside.



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7. A counter affidavit and additional counter affidavit have been filed on behalf of the third respondent. Based on the averments of the counter affidavit and the additional counter affidavit, learned Additional Government Pleader appearing for the respondents 1 to 3 would submit that in compliance of the modified interim order passed by the Madurai Bench of this Court dated 19.04.2017 in MP (MD) No.2 of 2014 and 1 of 2015 in WP(MD)No.12032 of 2014, etc., the Rule to the extent of designating the appointing authority has been modified only, but filling up of vacancies and following the Rule of reservation including 200 point roster, the District is considered as Unit as per Rules, 2013. Therefore, there is no modification with respect to consider the District as unit to implement rule of reservation and roster of appointment and as such, learned Additional Government Pleader would submit that there is no illegality or infirmity in the notification issued by the 4th respondent and hence, he sought to dismiss the Writ Petition.

8. Having considered the submissions of the learned counsel on either side and on perusal of the material available on record, though the counsels have raised several issues during the course of hearing the case, in the



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considered opinion of this Court, the issue to be considered in this Writ Petition for proper adjudication is only with respect to filling up the vacancies of the Village Panchayat Secretaries, whether the District has to be taken as the Unit or the Village Panchayat has to be taken as the Unit.

9.As per the learned counsel for the petitioner, in the light of the clarifications issued by the respondents in Letter (Ms) No.1, Rural Development & Panchayat Raj (E5) Department, dated 02.01.2018 as the appointing authority was changed from Personal Assistant (Development) to the District Collector to Block Development Officer/Executive Officer of the Panchayat, the Panchayat has to be taken as the Unit to implement the rule of reservation and roster point. But on a perusal of the interim order passed on 19.04.2017 by the Madurai Bench of this Court stated supra and on examination of the letter dated 02.01.2018 issued by the respondents, it is clear that there was no mention about the change of the District unit with respect to filling up of the existing vacancies. To the extent of designating the officer i.e., Personal Assistant to District Collector as the appointing authority is modified as per the Rules 2013. As per the interim directions of



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the Madurai Bench, the appointing authority is modified and the Block Development Officer is designated as appointing authority. But to fill the existing vacancies and to issue notification and to follow the rule of reservation and roster points, the District concerned shall be the Unit as per Sub-Rule(3) of Rule 3 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2013.

10.In view of the above, this Court finds substantial force in the contention of the learned Additional Government Pleader appearing for the respondents 1 to 3, that the Rule of reservation and roster points has to be implemented by taking the District as Unit to fill up the vacancies of Village Panchayat Secretary and as such, there is no infirmity or illegality in the impugned Notification.

11.For the above said reasons, this Court could not find any valid reasons raised by the petitioner seeking interference of this Court under Article 226 of the Constitution of India. The petitioner failed to make out any case for interference of this Court.



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12. Accordingly, this Writ Petition is dismissed.

No costs.

Consequently, connected miscellaneous petition is closed.

27.08.2024

Index : Yes/No

Speaking order: Yes/No

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BATTU DEVANAND, J

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