



W.P.No.33714 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.02.2024

CORAM:

THE HONOURABLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.33714 of 2013

and

M.P.No.1 of 2013

V.Kirubakaran
Panchayat Secretary
Eggoor Village Panchayat
Uthangarai Panchayat Union & Taluk
Krishnagiri District.

...Petitioner

Vs

1. The District Collector
(Inspector of Panchayats)
Krishnagiri District
Krishnagiri.

2. V.Kasirajan
President
Eggoor Village Panchayat
Uthangarai Block
Krishnagiri District.

3. K.Ramar
S/o.P.Kannan

...Respondents



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Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records pertaining to the order bearing ROC.No.26637/2013/M3 dated 02.12.2013 of the first respondent herein and quash the same.

For Petitioner : Mr.V.Suthakar
For Respondents : Mr.Abishek Murthy
Government Advocate
for R1 & R3
Mr.M.Elumalai, for R2

ORDER

The petitioner challenges the order dated 02.12.2023, in and by which, his appointment as Panchayat Secretary was cancelled. The impugned order states that the petitioner possess only 10th standard and Diploma but he did not have the qualification of 12th standard. The impugned order further states that the post was not properly advertised and without any proper selection, the petitioner has been selected. The impugned order further states that the applications from candidates belonging to other villages have been accepted. The applications from candidates belonging to other villages can be accepted only if there are no eligible candidates in the same village. For all the above irregularities, the petitioner's appointment was cancelled.



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2. Heard the learned counsel for the petitioner, learned Government Advocate for respondents 1 and 2 and learned counsel for the third respondent and perused the affidavit filed in support of writ petition and counter affidavit filed by respondents 2 and 3.

3. It can be seen from the impugned order as well as the counter affidavit that before passing the order, no opportunity whatsoever was granted to the petitioner. The impugned order has civil consequences. No wholesale fraud is alleged even in the impugned order. The impugned order only states the irregularities in the form of not having appropriate educational qualification and not following the procedure in recruitment. The petitioner submits that the Diploma in Automobile Engineering, is equivalent to 12th standard, even by the Government Orders. Even in respect of other irregularities alleged, the petitioner has an explanation. Therefore, this is not a case where the principles of natural justice can be dispensed with. The impugned order as such is illegal and violative of Article 21 of Constitution of India.



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4. In view thereof,

(1) This Writ Petition is allowed;

(2) The impugned order dated 02.11.2013 is quashed;

(3) It is seen that the petitioner is in service pursuant to the interim order granted by this Court in the writ petition;

(4) It is open for the respondents 1 and 2 to pass fresh orders by issuing show cause notice and affording opportunity to the petitioner and after hearing the petitioner on merits and considering his explanation as well as by giving opportunity of personal hearing to the petitioner.

Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

29.02.2024

Index: Yes

Speaking order

Neutral Citation : Yes

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To
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Krishnagiri District
Krishnagiri.
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D.BHARATHA CHAKRAVARTHY.J.,

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