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W.P.No.15974 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE J.SATHYA NARAYANA PRASAD

W.P.No.15974 of 2020
and
W.M.P.No.19883 of 2020

T.Gopal

...Petitioner

-Vs-

1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.

2.The Block Development Officer (Village Panchayat),
Vembakkam,
Thiruvannamalai District.

3.The Executive Officer,
Karanthai Village Panchayat,
Vembakkam Panchayat Union,
Thiruvannamalai District.

...Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a direction in the nature of Writ of Certiorari, calling for the records and quash the order dated 21.10.2020, bearing Na.Ka.No.OoA4/2747/2020, on the file of the second respondent and pass such further orders.



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For Petitioner : Mr.K.Surendar
For R1 & R3 : Mr.T.Rajendran
Additional Government Pleader
For R2 : Mr.Y.Parthasarathy

ORDER

This writ petition has been filed to quash the order dated 21.10.2020 bearing Na.Ka.No.OoA4/2747/2020 on the file of the second respondent.

2. The case of the petitioner is that he is serving as the Panchayat Secretary, Karanthai Village, Thiruvannamalai District, and is sought to be transferred to Kakanam Village, Thiruvannamalai District, by the 2nd respondent by passing the impugned order vide order dated 21.10.2020.

3. Learned counsel appearing for the petitioner would submit that in utter disregard of mandatory requirements stipulated under the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the 2nd respondent has not conducted the mandatory enquiry for transfer, has proceeded to pass the impugned order without assigning any valid reason for



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the same and without consulting the 3rd respondent in accordance with the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013. Aggrieved by which, the present writ petition is filed.

4. Learned counsel drew the attention of this Court to Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, wherein it is specifically stated as follows:

“11. Transfer:-

(1) Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.

(2) Transfer and postings within the Block shall be made by the Block Development Officer (Village Panchayats) of the Panchayat Union concerned. Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation with the Executive Authority of the Village Panchayat concerned. The Commissioner / Director of Rural Development and Panchayat Raj is the competent authority to make transfer from one District to another District based on the specific report from the Collector.”

5. Learned counsel appearing for the petitioner would submit that as per Rule 11 of Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the first condition is that the transfer shall be made only on administrative grounds supported by valid reason and after being



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considered by the concerned authority. In this case, proper enquiry was not conducted by the authority concerned and only based on the enquiry report submitted by the Zonal Deputy Block Development Officer addressed to the Block Development Officer, the impugned transfer order was issued by the second respondent.

6. It is to be noted that the proper authority to conduct the enquiry is the Block Development Officer and not the Zonal Deputy Block Development Officer as per the rules of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013.

7. He further submitted that before the enquiry report was submitted by the Zonal Deputy Block Development Officer, the petitioner was not called for any enquiry. Neither notice nor opportunity of personal hearing was given to the petitioner. Without hearing him, the report has been submitted to the second respondent.

8. It is submitted by the learned counsel for the petitioner that when the matter was taken up for admission, this Court was pleased to grant an



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interim stay on the transfer proceedings of the second respondent and the same is in force till date.

9. A counter affidavit was filed on behalf of the respondents dated 03.02.2022.

10. Learned Additional Government Pleader appearing for respondents 1 and 3 would submit that the Petitioner was initially appointed as Writer in Karanthai Village Panchayat, Thiruvannamalai District on 25.10.2001, vide P.U.Resolution No.1 dated 26.11.2001 of 3rd Respondent regularized with effect from 25.10.2001 vide P.U.Resolution No.1 dated 26.11.2001 as Panchayat Secretary and as such the Petitioner is serving in the said Panchayat for the past 15 years. Since various complaints were received from the Village people, an enquiry was conducted by Moorthy Zonal Deputy Block Development Officer and he submitted a report on 01.10.2020.

11. Since the petitioner has been serving in the same place for more than 15 years continuously he was transferred from Karanthai Village to Kaganam Village for administration and for the welfare of the Panchayat.



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The transfer was made on administrative grounds within the same block by the competent authority, viz, the Block Development Officer (Village Panchayat), the 2nd respondent herein, in accordance with Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules 2013. The Petitioner cannot allege that no reasons are given in the impugned transfer order. The Petitioner has been transferred within 10 km from the present station. Hence, there is no prejudice caused to the Petitioner, and the transfer order need not be interfered with. The petitioner's transfer was in the interest of the administration and it is well within the ambit of the powers of the 2nd Respondent.

12. The Rule 11 of Tamil Nadu Panchayats Act, 1994 (Tamil Nadu Act 21 of 1994), reads as follows:

“11. Transfer:-- 1. As per G.O.Ms.No.72, Rural Development and Panchayat Raj(E5) Dept. dated 09.07.2013, Transfer of a person holding the post shall be made only on administrative grounds supported by valid reasons and after proper enquiry by the authorities concerned.

2. As per G.O.Ms.No.72/ Rural Development and Panchayat Raj (E5) Dept. Dated:09.07.2013 Transfer and posting within the Block shall be made by the Block Development Officer(Village Panchayat) of the Panchayat Union concerned. Transfer and postings to other Blocks within the District shall be made by the Personal Assistant (Development) to the Collector. All transfers and postings within the Block and the District shall be done in consultation



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with the Executive Authority of the Village Panchayat concerned. The Commissioner/ Director of Rural Development and Panchayat Raj is the Competent Authority to make transfer from one District to another District based on the specific report from the Collector.

The based on the above Rules position, the Respondents have acted in accordance with report submitted by the Zonal Deputy Block Development Officer. The same has been reflected in the transfer order dated 21.10.2020 Roc PA4/2747/20 of the 2nd Respondent. The Petitioner is very well aware about the enquiry conducted, but has now chosen to challenge the transfer order on untenable grounds.”

13. Learned Additional Government Pleader appearing for respondents

1 and 3 vehemently submitted that as per condition (1) of Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the enquiry has been conducted by the concerned authority, i.e., Block Development Officer (BDO), who has instructed the Zonal Deputy Block Development Officer to conduct the enquiry in regard to the transfer of the petitioner. The enquiry was conducted based on the representation given by the villagers dated 03.08.2020 requesting to transfer the petitioner on the ground that since he has been working in his own Village in Karanthai Panchayat for a long time and due to factors such as relationship and political position, corruption in various schemes of the Government leads to confusion and monopolization in the panchayat administration. Hence, administration order was passed by the second respondent on 21.10.2020



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after conducting a proper enquiry and in accordance with Rule 11 of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013.

14. Heard both sides and perused the materials available on record.

15. In the case on hand, the transfer order passed by the second respondent dated 21.10.2020 is only based on the allegation of the villagers by way of representation dated 03.08.2020 requesting the third respondent to transfer the petitioner. The enquiry is to be properly conducted by the Block Development Officer as per Rule 11(1) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013. However in the present case, the enquiry was conducted by the Zonal Deputy Block Development Officer as directed by the third respondent.

16. In view of the above facts and circumstances of the case, this Court is of the considered view that the impugned order passed by the second respondent dated 21.10.2020 is liable to be set aside and



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accordingly the same is hereby quashed.

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17. In view of the interim order passed by this Court at the time of admission on 06.11.2020, the petitioner is continuing the same till date. In the future, if there is any complaint from the villagers against the petitioner, proper enquiry shall be conducted by the third respondent and if the complaint is found to be true and stands proved, he may be transferred following the Rule 11 (2) of the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013.

18. The respondents are directed to conduct proper enquiry after giving notice and opportunity of personal hearing to the petitioner by following the principles of natural justice before passing the final order of transfer in future.

In the result, the writ petition stands disposed of with the above observations and direction. No costs. Consequently, connected miscellaneous petition is closed.

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cda

Index : Yes / No

Speaking/Non Speaking order



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J.SATHYA NARAYANA PRASAD, J.

cda

To

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Thiruvannamalai District,
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Vembakkam,
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