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W.A.No.2405 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.11.2024

CORAM

**THE HONOURABLE MR.JUSTICE R.SURESH KUMAR
and
THE HONOURABLE MR.JUSTICE C.SARAVANAN**

**W.A.No.2405 of 2024
and
C.M.P.No.17054 of 2024**

1. The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Secretariat,
Chennai - 600 009.
2. The District Collector / Inspector of Panchayat,
Salem District,
Salem.
3. The Personal Assistant to District Collector (Development),
Salem District,
Salem. ... Appellants

-Vs-

1. M.Pavitra
2. The Block Development Officer (Village Panchayat),
Mecheri Panchayat Union,
Mecheri - 636 453,
Salem District.



W.A.No.2405 of 2024

3. The Panchayat President,
Vellar Village Panchayat,
Mecheri Panchayat Union,
Vellar Post,
Mettur Taluk,
Salem District.

... Respondents

PRAYER : Appeal filed under Clause 15 of Letters Patent, to set aside the order in W.P.No.10298 of 2020 dated 20.09.2023 and allow the above writ appeal.

For Appellants : Mr.Yashwanth
Additional Government Pleader

For Respondents : Mr.M.R.Jothimanian for R1
No appearance for R2 & R3

J U D G M E N T

(Judgment of the Court was delivered by **R.SURESH KUMAR, J.**)

This intra-Court appeal has been directed against the order passed by the writ Court dated 20.09.2023 in W.P.No.10298 of 2020.

2. That the first respondent namely, Pavitra was one of the candidate appeared for the selection process which commenced by the notification dated 11.11.2019 issued by the appellants for selection to the post of Secretary of the Village Panchayat of Vellar Village in Salem District. In the selection process,



W.A.No.2405 of 2024

an interview was conducted on 01.07.2020. In the meanwhile, on 15.06.2020, the District Collector, i.e., the second appellant herein had issued a circular stating that, the appointing authority of the Village Secretary post is the Village President. Subsequently, on 21.07.2020, all of a sudden, the second respondent herein, i.e., the Block Development Officer in his capacity as a special officer of the Village Panchayat concerned cancelled the selection process on 21.07.2020 by simply saying that due to administrative reasons it was cancelled. Challenging the same, the writ petition has been filed by the first respondent herein.

3. The learned writ Court has considered the factual matrix and factually found that, the post of Village Panchayat Secretary of the Village concerned was reserved for Scheduled Tribe Community and the first respondent / writ petitioner belongs to the said community and she was fulfilling all the qualifications required to hold the post and based on the performance she has made in the interview conducted on 01.07.2020, the selection process was completed and she was selected.

4. This position has been admitted by both the authorities, i.e., the District Collector as well as the Block Development Officer in the respective



W.A.No.2405 of 2024

counter affidavit filed in this regard before the writ Court stating that, pursuant to the selection process, the selection list was published selecting the first respondent / writ petitioner as Panchayat Secretary. It is further to be noted that, in the counter affidavit filed by the Block Development Officer, Mecheri before the writ Court, the exact words occurred in the counter is that, after conducting interview, on the same day, a selection list was published selecting and appointing the writ petitioner as Panchayat Secretary.

5. However, it is the claim of the appellants that, though selection has been completed and she was selected, no appointment order has been given, before which, on 21.07.2020, the cancellation was made, therefore, no vested right accrued on the writ petitioner to seek appointment.

6. The learned Additional Government Pleader appearing for the appellants would further submit that, assuming that if the selection is completed, thereafter, the selectees list shall be forwarded to the District Collector who after scrutinizing the same has to approve it in terms of the circular dated 15.06.2020 issued by the District Collector and after approval only, such appointment would be made either by the Executive Officer of the Panchayat who is none other than the Block Development Officer or the Village Panchayat President as the case may be.



W.A.No.2405 of 2024

7. Hence, the learned Additional Government Pleader would submit that, it is open to the Block Development Officer, who alone since had issued the notification on 11.11.2019, to cancel the same for administrative reasons.

8. Mr.M.R.Jothimanian, learned counsel appearing for the first respondent would submit that, originally the Village President was the appointing authority, subsequently, during the COVID period, there has been no elected President, the power was vested with the Block Development Officer who normally would be acting as Special Officer of the Village Panchayat concerned and once the election was held for local panchayats and elected Presidents have come to the office that elected officer became the Executive Officer and they hold the power to make the appointments, that has been clarified by the circular issued by the District Collector dated 15.06.2020 which might have triggered or based on which, he might have annoyed, therefore, the Block Development Officer unilaterally has cancelled the very selection process itself on 21.07.2020 without any plausible reasons. Therefore, such cancellation could not stand in the legal scrutiny, that is why, the learned Judge has set aside the said cancellation order and ultimately, issued a direction by way of mandamus to the authority concerned to give appointment to the writ petitioner.



W.A.No.2405 of 2024

9. We have considered the said rival submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

10. Insofar as the selection process is concerned, absolutely, there has been no faulty or any error found out in following the said procedure by the respective authorities. As the notification was issued on 11.11.2019, candidates who made application have been short-listed and called for interview, interview was conducted on 01.07.2020 and in the interview, i.e., final selection process, the writ petitioner was selected. To that extent, these factors have been admitted by the authority. However, all of a sudden, within twenty days on 21.07.2020, i.e., before sending the selection list to the District Collector to get his approval before making the appointment order, which was suddenly cancelled on 21.07.2020 by the Block Development Officer, absolutely without any reason, except to say that, there is an administrative reasons.

11. Normally this kind of administrative reasons cited by the Governmental authorities when it was questioned before the Court under the judicial review must be explained before the Court as to what is the administrative reasons or administrative exigency or contingency which



W.A.No.2405 of 2024

compelled the authority to act upon the manner in which they have acted upon which is questioned before the Court under the judicial review.

12. Herein the case in hand, we have perused the order impugned before the writ Court as well as the counter affidavit filed both by the Block Development Officer as well as District Collector office. In all these documents, except the one line answer saying that, for administrative reasons, it has been cancelled, nothing more nothing less has been stated. Even the administrative reasons have not been further explained as to why such a compulsive action has been taken by the Block Development Officer to cancel the selection process despite the same having been completed in the manner known to law and selected a successful candidate.

13. If any power is vested with the authorities, that must be exercised in the manner known to law. If a power vested with the authorities is exercised, capriciously, that can very well be construed as the action on the part of the authorities in violation of principles enunciated under Article 14 of the Constitution of India. Therefore, we have no hesitation to hold that, the action on the part of the Block Development Officer in cancelling the selection process is without any reason and therefore, such cancellation cannot be sustained in the eye of law.



W.A.No.2405 of 2024

14. This view has been taken also by the learned Judge of the writ Court in the order impugned, therefore, his reasoning as well the conclusion reached by him cannot be found fault with and therefore, we do not find any plausible reason to interfere with the order impugned.

15. Moreover, it is also brought to our notice by the learned Additional Government Pleader appearing for the appellants that, in the meanwhile, on 31.07.2024 by the proceedings issued by the District Collector, the writ petitioner has been appointed as per the selection that has been made of course with a rider that, such appointment is made without prejudice to the right of the appellants in this writ appeal.

16. In view of the appointment order having been given pursuant to the order dated 31.07.2024 issued by the District Collector, consequential order also has been issued by the Village President concerned on 08.08.2024, pursuant to which, the writ petitioner joined the service on 09.08.2024 and she has been working.

17. Therefore, for all these reasons that have been stated herein above, we do not find any merits in this writ appeal to interfere with the order



W.A.No.2405 of 2024

impugned, hence, this Writ Appeal fails and accordingly, it is dismissed.

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

(R.S.K., J.) (C.S.N., J.)

27.11.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

vji

To

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Mecheri - 636 453,
Salem District.
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