



WEB COPY



WP.No.22170 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :05.01.2024

CORAM

THE HONOURABLE MS. JUSTICE R.N.MANJULA

W.P No.22170 of 2021
and
WMP.Nos.23403 & 23404 of 2021

Maheshwari

...

Petitioner

/vs/

1. The District Collector,
Kallakurichi District,
Kallakurichi.
2. The Block Development Officer
Kallakurichi Taluk,
Kallakurichi District.
3. The Special Officer /
Block Development Officer
(Village Panchayat)
Pasar Panchayat,
Block Development Office Village Union,
Rishivandiyam Union, Kallakurichi.

4. S. Chandaralekha

...

Respondents

Prayer: Writ Petition has been filed under Article 226 of the Constitution of India for issuance of a WRIT OF CERTIORARIFIED MANDAMUS to call for



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the records of the 3rd respondent pertaining to impugned order passed in Na.Ka.No.A2/2293/2020 dated 25.02.2021 and quash the same as illegal and direct the 3rd respondent to give an appointment to the petitioner.

For Petitioner : Mr.C.Umashankar

For Respondents : MrM.Rajendrian, AGP for RR1 to 3
: Mr.V.Balu for R4

ORDER

The petitioner has filed this Writ Petition by challenging the appointment of the 4th respondent for the post of Village Panchayat Secretary on the ground that the 4th respondent does not reside in the Panchayat. But only the petitioner has got the residential status within the Panchayat.

2.Heard, Mr.C.Umashankar, learned counsel for the petitioner and MrM.Rajendrian, learned Additional Government Pleader for respondents 1 to 3 and Mr.V.Balu learned counsel for the 4th respondent and perused the materials available on record.

3. As per the notification dated 27.10.2020, one of the conditions for the



appointment of the post of Village Panchayat Secretary is that the applicant has to live within the Panchayat for which the selection is made. The Notification dated 27.10.2020 specifies two Panchayats; one is Illayanar Kuppam Panchayat and another one is Pasar Panchayat. The impugned appointment is in respect of Pasar Panchayat.

4. Mr. M.Rajendrian, learned Additional Government Pleader for respondents 1 to 3 submitted that 4th respondent has obtained higher marks than the petitioner and she is residing in the nearby village. As per the notification if eligible person is not available in the village for which the appointment is made, any person who is residing in the nearby village can be considered. So it is submitted that the 4th respondent is residing in Ariyanthakka village which is just 4 kilo metres from Pasar village for which the recruitment is made.

5. On perusal of the marks statement obtained in the counter, it is seen that the petitioner has obtained 11 marks and the 4th respondent has obtained 13 marks.

6. Per contra, Mr.C.Umashankar, learned counsel for the petitioner



submitted that notification does not say anything about the marks but only the residence as the condition.

7. No doubt, marks will play a role when more than one person had applied for a post and there is a competition between them. In the case in hand, there are at least more than four persons have applied for the post and they belonged to Pasar village and the Pasar Panchayat. Four more persons who have applied belonged to nearby Panchayat. The above information have been furnished to the petitioner from the Rishivandiyam Taluk, under RTI.

8. It is understandable that the 3rd respondent received the applications from those persons who have got their residences in the same Panchayat and also in the adjacent Panchayat. Anticipating a contingency in case eligible persons are not available in the Pasar Panchayat, the applications of person applied from the nearby Panchayat, have also been received.

9. The records would show those persons who have got residential address at Pasar Panchayat does not suffer from any eligibility criteria. In such case, the competition can be among those persons who hailed from Pasar Panchayat and



who had applied for the post. But the 3rd respondent has considered all the 8 persons together and had selected the person from the nearby village as the person who had got the highest marks. Even as per the notification condition only if the eligible person is not available in the notified Panchayat the persons in the adjacent Panchayat can be considered.

10. Without exhausting the option from the notified village, the 3rd respondent had chosen to select the candidate from the nearby village which is fundamentally wrong. If competition was among the four persons who hailed from the same village that alone should have been considered. However even among the 4 persons who have applied from the notified village, the petitioner has not come as a topper. Notification does not contemplate any interview. In such case it is not understandable on what criteria the marks are awarded to the candidates.

11. Whatever may the case, other persons who have applied from the same village are not before the Court. The petitioner was not given with higher marks among the persons who had applied from the same village. In such a situation, no purpose will be served if the status quo is disturbed.



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R.N.MANJULA, J.

jrs

In the result, this Writ Petition is disposed. No costs. Consequently, connected miscellaneous petitions are closed.

05.01.2024

Index : Yes

Internet : Yes/No

jrs

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