



WEB COPY

W.P.No.30917 of



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.10.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

W.P.No.30917 of 2022
and W.M.P.No.30318 & 30320 of 2022

C.Dharanivasan

... Petitioner

Vs.

- 1.The District Collector,
Office of the District Collector,
Thiruvannamalai District.
- 2.The Personal Assistant to District
Collector (Development),
Office of the District Collectorate,
Thiruvannamalai.
- 3.The Block Development Officer
(Village Panchayat),
Kilpennathur Panchayat Union,
Thiruvannamalai District.
- 4.The President,
Kallayi Village Panchayat,
Kilpennnathur Panchayat Union,
Thiruvannamalai District.

5.S.Rajkiran

... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining



to the order in Na.Ka.No.Ma.U.0001/2021 dated 10.06.2022 issued by the 4th respondent, quash the same as illegal and consequently, direct the respondents 1 to 4 to appoint the petitioner to the post of Panchayat Secretary, Kallayi Village Panchayat, Kilpenathur Panchayat Union, Thiruvannamalai District with effect from the date, the 5th respondent was appointed with all consequential benefits.

For Petitioner : Mr.P.G.Thiyagu

For Respondents : Mr.R.U.Dinesh Raj Kumar,
AGP for R1 to R4
M/s.J.Prageetha Rinu Senan for R5

ORDER

This Writ Petition has been filed for quashment of the order of the 4th respondent in Na.Ka.No.Ma.U.0001/2021 dated 10.06.2022 as illegal and consequently, to direct the respondents 1 to 4 to appoint the petitioner as Panchayat Secretary of Kallayi Village Panchayat, Kilpenathur Panchayat Union, Thiruvannamalai District with effect from the date on which the 5th respondent was appointed with all consequential benefits.

2. Heard the learned counsel on either side and also perused the materials available on record.



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3. The learned counsel for the petitioner submitted that the petitioner belongs to BC Ex-service man category possessing qualification of HSCC and residing in the Kallayi Village. On 09.11.2019, the 3rd respondent issued a notification by inviting applications for the post of Village Panchayat Secretary to be appointed in the vacancies available in the Angunam and Kallayi village. The vacancy for the Angunam Village was reserved for Women category and the vacancy for the Kallayi Village was notified to the open category. The petitioner applied for the post of Village Panchayat Secretary notified for Kallayi Village. The 2nd respondent issued the selection notification in which the petitioner was selected for the post of Village Panchayat Secretary of Kallayi Village. Pursuant to the selection, the petitioner was awaiting for issuance of appointment order. Unfortunately, the Panchayat election was notified and the respondents 2 and 3 could not grant appointment to the petitioner. Therefore, the petitioner made representations to the respondents for issuance of appointment order. Since there was no response from the respondent, the petitioner moved a petition before this Court in W.P.No.16659 of 2021 seeking for a direction to the respondents to proceed further with the recruitment process pursuant to the notification dated 09.11.2019 and to issue appointment order to the petitioner as Village



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Panchayat Secretary to the Kallayi village. This Court by an order dated 12.08.2021 had disposed of the said petition by directing the respondents to consider the representation of the petitioner within a period of 8 weeks.

4. He further submitted that pursuant to the order of this Court dated 12.08.2021, the 1st respondent rejected the representation of the petitioner on 04.10.2021 stating that pursuant to the Panchayat election, a new Panchayat President has been appointed to the Kallayi Village and therefore, power to select and appoint the Panchayat Secretary was lying with the new elected Panchayat President. Thereafter, the petitioner made several requests to the 4th respondent to consider the selection of the petitioner and for issuance of appointment order to him. Thereafter, the petitioner submitted an application under Right to Information and on 26.10.2022, it was informed to the petitioner that one Rajkiran/5th respondent was appointed as Panchayat Secretary in the vacancy for which the petitioner was selected to the Kallayi Panchayat Village. The 5th respondent did not participate in the selection process. In these circumstances, there is no chance of the 5th respondent to be selected for appointment. Moreover, no order has been passed by the authority cancelling/ withdrawing the earlier notification inviting application



for the post of Village Panchayat Secretary. As per the verdict of the Hon'ble Supreme Court in *Umadevi Vs. State of Karnataka reported in 2006 (4) SCC Pg.1*, any appointment, without based on a notification and without proper selection, is illegal. Hence, the appointment of the 5th respondent is illegal.

5. The learned Additional Government Pleader appearing for the respondents 1 to 4 submitted that the 5th respondent is fully deserved for the post of Panchayat Secretary and he has fully satisfied all the criteria required thereon. The 2nd respondent has not issued any orders regarding the appointment of the petitioner for the post of Village Panchayat Secretary, Kallayi Village. In fact, in 2019, no recruitment process was initiated but only a notification dated 09.11.2019 was issued for inviting applications for the post of Village Panchayat Secretary in Kallayi Village. As per the directions of this Court in W.P.No.16659 of 2021, the 1st respondent considered the representation of the petitioner and an order of rejection was passed. There were 111 applications received along with the application of the 5th respondent, out of which, 89 candidates participated in the interview. Out of 89 candidates, 22 candidates including the 5th respondent found eligible for



the post of Panchayat Secretary of Kallayi Village. The 5th respondent has fulfilled all the eligibility and was appointed after following the due process of law. The local body election was completed on 02.01.2020 and after election, all the powers of the Special Officer/ Block Development Officer were restored to the Village Panchayat President.

6. He further submitted that in the year 2022, the validity of the appointment of the 5th respondent was called into question by one Krishnamoorthy, who is the ward member of Kallayi Village, filed a Writ Petition in W.P.No.26975 of 2022. Subsequently, as per the order dated 07.10.2022, the 1st respondent has conducted an inquiry on 11.09.2023 regarding the appointment of the 5th respondent as Village Panchayat Secretary and concluded that the 5th respondent has been rightly appointed after following due process of law. With regard to the above facts, the appointment of the 5th respondent is made with due compliance to the procedure laid down in law. The 4th respondent had strictly followed the norms and terms of the notification dated 09.11.2019 in appointing the 5th respondent as Secretary of the said Panchayat.



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7.A perusal of the records reveal that proper procedure has been adhered by the 4th respondent in selecting the 5th respondent. As per the order of this Court dated 07.10.2022, the 1st respondent has conducted an inquiry on 11.09.2023 regarding the appointment of the 5th respondent as Village Panchayat Secretary and concluded that the 5th respondent has been rightly appointed after following due process of law. Hence, this Court is of the considered opinion that the order of the 4th respondent warrants no interference.

8. Accordingly, this Writ Petition stands dismissed. Consequently, connected Miscellaneous Petitions are also closed. No costs.

23.10.2024

vkr

Index : Yes / No

Speaking order / Non-speaking order

Neutral Citation : Yes / No

To

1.The District Collector,
Office of the District Collector,
Thiruvannamalai District.



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VIVEK KUMAR SINGH, J.

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