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W.P.(MD) No.1669 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.08.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.1669 of 2021

and

W.M.P.(MD) Nos.1414 & 1415 of 2021 & 21331 of 2023

S.Kowsalya

... Petitioner

-vs-

1.The District Collector
Trichy District
Trichy

2.The Personal Assistant
to District Collector
(Development)
O/o.The Collector
Trichy District
Trichy

3.The Block Development Officer
O/o.Block Development Office
Uppliyapuram
Thuraiyur Taluk
Trichy District

4.N.Vijay

... Respondents



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PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned order passed by the third respondent in his proceedings in Se.Mu.Aa2/624/2018, dated 21.11.2019 and quash the same as illegal and consequentially to direct the respondents to appoint the petitioner as Panchayat Secretary at Kamachipuram Village, Uppliyapuram Panchayat Union, Thuraiyur Taluk, Trichy District.

For Petitioner : Mr.Mohammed Imran
for M/s.Ajmal Associates

For Respondents : Ms.D.Farjana Ghoushia
Special Government Pleader for R1 to R3
Mr.AL.Kannan for R4

ORDER

This writ petition has been filed by the petitioner challenging the appointment of the fourth respondent to the post of Panchayat Secretary.

2. The petitioner and the fourth respondent had applied for the said post pursuant to the recruitment notification issued by the official respondents. One of the criteria for selection to the said post is that the



W.P.(MD) No.1669 of 2021

WEB COPY

applicant must be a resident of Kamatchipuram Village. The petitioner claims that the fourth respondent is not a resident of Kamatchipuram Village, but, despite the same, he was selected to the subject post by the official respondents.

3. The official respondents have filed their counter affidavit. They have categorically denied the allegations of the petitioner that the fourth respondent was not a resident of Kamatchipuram Village at the time of the recruitment notification. At the time of filing of this writ petition, the petitioner did not file the Aadhaar card of the fourth respondent in the typed set of documents filed along with this writ petition to show that the fourth respondent is not a resident of Kamatchipuram Village. Only today, during the course of arguments made by the learned counsel for the petitioner, a copy of the Aadhaar card of the fourth respondent has been produced to substantiate the case of the petitioner that the fourth respondent is not a resident of Kamatchipuram Village, but, instead, he is a resident of Pachaperumalpatti village.



W.P.(MD) No.1669 of 2021

WEB COPY

4. Learned counsel appearing for the fourth respondent would submit that on the date of the recruitment notification, the fourth respondent was a resident of Kamatchipuram Village and to substantiate the same, learned counsel for the fourth respondent has also produced a copy of the Aadhaar card of the fourth respondent, which will reveal that the fourth respondent was a resident of Kamatchipuram Village at the time of the recruitment notification. Learned counsel for the fourth respondent would also state that at the time of the recruitment notification, the fourth respondent was a resident of Kamatchipuram Village and thereafter, he was transferred to Pachaperumalpatti village subsequent to his selection within seven months from the date of his appointment. He would submit that the learned counsel for the petitioner has produced a copy of the present Aadhaar card of the fourth respondent, which is irrelevant for establishing that the fourth respondent was not a resident of Kamatchipuram Village at the time of the recruitment notification, which was issued in the year 2018.

5. Learned counsel for the petitioner would submit that a copy of the Aadhaar card of the fourth respondent has been produced by the fourth respondent only now, which cannot be accepted. He would further submit



W.P.(MD) No.1669 of 2021

WEB COPY

that only through the RTI application, the petitioner was able to get the Aadhaar card of the fourth respondent recently, which has been produced before this Court today. He would once again reiterate that the fourth respondent was not a resident of Kamatchipuram Village at the time of the recruitment notification and therefore, his appointment to the post of the Panchayat Secretary has to be quashed by this Court.

6. Learned Special Government Pleader appearing for the official respondents would reiterate the contents of the counter affidavit filed by the official respondents and would support the stand taken by the fourth respondent by stating that the fourth respondent was a resident of Kamatchipuram Village at the time of the recruitment notification and he has satisfied the required residential criteria as per the recruitment notification and therefore, there is no question of setting aside his appointment by this Court.

7. At the time of filing of this writ petition, the Aadhaar card of the fourth respondent was never produced by the petitioner. Only for the first time i.e. today, learned counsel for the petitioner has produced a copy of the



W.P.(MD) No.1669 of 2021

WEB COPY

Aadhaar card of the fourth respondent to substantiate the petitioner's case that the fourth respondent was not a resident of Kamatchipuram Village at the time of the recruitment notification and he was a resident of Pachaperumalpatti village. Learned counsel for the fourth respondent has given a proper explanation for the fact that the Aadhaar card produced by the learned counsel for the petitioner shows that the fourth respondent is a resident of Pachaperumalpatti village and he would submit that originally, the fourth respondent was a resident of Kamatchipuram Village at the time of the recruitment notification and only after his appointment to the post of Panchayat Secretary, within a period of approximately seven months from that date, he had been transferred to Pachaperumalpatti village and only due to the said fact, the Aadhaar card of the fourth respondent discloses that he is a resident of Pachaperumalpatti village. The official respondents, in their counter affidavit filed before this Court, have also categorically stated that the fourth respondent had satisfied the residential criteria i.e. being a resident of Kamatchipuram Village and only thereafter, he was appointed to the post of Panchayat Secretary and therefore, according to them, there is no illegality committed by them in the appointment of the fourth respondent to the post of Panchayat Secretary. A satisfactory explanation has also been given by the



W.P.(MD) No.1669 of 2021

WEB COPY

learned counsel for the fourth respondent as to why the Aadhaar card produced by the learned counsel for the petitioner in the Open Court today discloses the address of the fourth respondent as Pachaperumalpatti village. The reasons for the change of address are probable and acceptable by this Court. In a writ petition, a roving enquiry cannot be conducted. The recruitment pertains to the year 2018. This writ petition was filed in the year 2021. This Court cannot also entertain this writ petition at this stage, when the other factors, which have been highlighted supra, also reveal that the petitioner has not made out a case for cancelling the appointment of the fourth respondent to the post of Panchayat Secretary. In the result, there is no merit in this writ petition.

8. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petitions are closed.

07.08.2024

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Page 7 of 9



W.P.(MD) No.1669 of 2021

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O/o.The Collector,
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Trichy.
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ABDUL QUDDHOSE, J.

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