



W.A(MD)No.1772 of 2023 etc., batch

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.08.2024

CORAM:

**THE HONOURABLE MR.JUSTICE R.SUBRAMANIAN
and
THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI**

W.A(MD)No.1772 of 2023

and

W.P.(MD)Nos.7851& 12032 of 2014, 16884 of 2013

and

C.M.P.(MD)No.13523 of 2023

W.A.(MD)No.1772 of 2023

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Rural and Development and
Panchayat Raj Department,
Secretariat, Chennai-9.
 - 2.The Director of Rural Development
and Panchayat raj,
O/o the Director of Rural Development
and Panchayat Raj,
Panagal Maligai,
Chennai-15.
 - 3.The District Collector,
Kanyakumari District,
Kanyakumari.
 - 4.The Personal Assistant
to District Collector (Development),
O/o the Collector,
Kanyakumari District,
Kanyakumari.
 - 5.The Block Development Officer,
O/o. Block Development Office,
Killiyoor, Kanyakumari District.
- ... Appellants / Respondents



W.A(MD)No.1772 of 2023 etc., batch

-VS-

Paloor Village Panchayat,
Rep. by its President,
K.Ajeeth Kumar,
Paloor Village Panchayat,
Kanyakumari District.

... Respondents / Writ Petitioner

PRAYER: Appeal filed under Clause 15 of Letters Patent, to set aside the order passed in W.P.(MD)No.18747 of 2020 dated 27.04.2023.

For Appellants : Mr.P.Veerakathiravan,
Assisted by
Mr.S.R.A.Ramachandran,
Additional Government Pleader

For Respondent : Mr.H.Mohammed Imran,
For Mr.K.P.Narayana Kumar

W.P.(MD)No.7851 of 2014

M.R.Chinnaiah
President of Manamelpatti
Village Panchayat,
Manamelpatti Village,
Thiruppathur Panchayat Union,
Sivagangai District.

... Petitioner

-VS-

1.The State Represented by the
Secretary to Government,
Rural Development & Panchayat
Raj Department,
Secretariat, Chennai-09.

2.The District Collector,
Sivaganga District,
Sivaganga.

3.The Personal Assistant (Development)
to District Collector,
Sivaganga District,
Collectorate, Sivaganga.



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4.The Block Development Officer
(Panchayats),
Thirupathur Panchayat Union,
Thiruppathur Post,
Sivaganga District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration to declare that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 issued in G.O.Ms.No.72 Rural Development and Panchayat Raj (E5) Department dated 09.07.2013 as ultra virus to the Constitution of India as is violative of Article 14,16 and 243 to 243 O of the Constitution of India.

(Prayer amended as per order dated 23.07.2014 made in M.P.

(MD)No.3/2014 in W.P.(MD)No.7851/2014)

For Petitioner : Mr.M.Saravanakumar

For R-1 to R-3 : Mr.P.Veerakathiravan,
Assisted by
Mr.S.R.A.Ramachandran,
Additional Government Pleader

For R-4 : Mr.S.R.A.Ramachandran,
Additional Government Pleader

W.P.(MD)No.12032 of 2014

Melamathur Panchayat,
Rep. by its Executive Officer /
President,
M.Karuppaiah M/A35,
Melamathur Union,
Madurai West Taluk,
Madurai District.

... Petitioner

-VS-



W.A(MD)No.1772 of 2023 etc., batch

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
Panchayat,
Secretariate,
Chennai-9.
- 2.The District Collector,
Madurai District,
Madurai.
- 3.The Personal Assistant,
to District Collector,
O/o the Collector,
Madurai District,
Madurai.
- 4.The Block Development Officer,
Madurai West Panchayat Union
Office,
Madurai Taluk,
Madurai District.
- 5.Tamil Nadu Rural Development
Officials Association,
Rep. by its President,
M.Subramanian,
No.131/1, Veerasamy Thottam,
Mengles Street,
Dindigul District.

... Respondents

*(R5 is impleaded vide Court order dated 16.11.2015 in M.P.
(MD)No.2/2015 in W.P.(MD)No.12032 of 2014)*

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration to declare that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 issued under G.O.Ms.No.72 Rural Development and Panchayat Raj (E5) Department dated 09.07.2013 as ultra virus to the Constitution of India as is violative of Article 14,16 and 243 to 243 O of the Constitution of India.



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

For R-1 to R-3 : Mr.P.Veerakathiravan,
Assisted by
Mr.S.R.A.Ramachandran,
Additional Government Pleader

For R-4 : Mr.S.R.A.Ramachandran,
Additional Government Pleader

For R-5 : M/s.S.Jessimathul Fathima

W.P.(MD)No.16884 of 2013

Pudukudi First Grade Panchayat,
Rep. by its Executive Officer /
President, R.Gopiraj,
Kadayanallur Union,
Mangalapuram (Post),
Kadayanallur Via,
Tenkasi Taluk,
Tirunelveli District.

... Petitioner

-VS-

- 1.The State of Tamil Nadu,
Rep. by its Secretary,
First Grade Panchayat,
Secretariate,
Chennai-9.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Personal Assistant
to District Collector,
O/o the Collector,
Tirunelveli District,
Tirunelveli.
- 4.The Block Development Officer,
Kadayanallur Panchayat Union Office,
Tenkasi Taluk,
Tirunelveli District.



W.A(MD)No.1772 of 2023 etc., batch

5.Tamil Nadu Rural Development
Officials Association,
Rep. by its President,
M.Subramanian,
No.131/1, Veerasamy Thottam,
Mengles Street,
Dindigul District.

6.Tamil Nadu Panchayat Secretaries
Association,
Rep. through its State President
A.John Bosco Prakash,
S/o.Arulsamy, No.7/197,
Middle Street, A.Vellodu,
Dindigul District.

... Respondents

*(R5 is impleaded vide Court order dated 16.11.2015 in M.P.
(MD)No.2/2015 in W.P.(MD)No.16884 of 2013)*

*(R6 is impleaded vide Court order dated 20.09.2022 in
W.M.P.(MD)No.9735/2021 in W.P.(MD)No.16884 of 2013)*

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Declaration to declare that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013 issued under G.O.Ms.No.72 Rural Development and Panchayat Raj (E5) Department dated 09.07.2013 as ultra virus to the Constitution of India as is violative of Article 14,16 and 243 to 243 O of the Constitution of India.

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

For R-1 to R-3 : Mr.P.Veerakathiravan,
Assisted by
Mr.S.R.A.Ramachandran,
Additional Government Pleader

For R-4 : Mr.S.R.A.Ramachandran,
Additional Government Pleader



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For R-5 : Mr.L.Shaji Chellan

For R-6 : Mr.S.Sarvagan Prbhu

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COMMON JUDGMENT

[Judgment of the Court was made by R.SUBRAMANIAN, J.]

W.P.(MD)Nos.7851& 12032 of 2014, 16884 of 2013:

The prayer of the writ petitions are as follows:

“To issue a Writ of Declaration to declare that the Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, issued under G.O.Ms.No.72 Rural Development and Panchayat Raj Department, dated 09.07.2013 is ultra virus of the Constitution of India as it violates Article 14, 16 and 243 to 243 (o) of the Constitution of India.”

2. Pending the writ petitions, the operation of the rules was stayed by this Court. Therefore, the old rules that were in place were operating and Secretaries to village panchayats were appointed by the respective Presidents. The Government has come up with G.O.Ms.No.113, Rural Development and Panchayat Raj (E5) Department, dated 13.09.2023 which replaces the rules brought in vide G.O.Ms.No.72, dated 09.07.2013. The new rules provides for a machinery for appointment of the panchayat Secretaries by the Presidents of the village panchayats.



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3. In view of the fact that the new rules have been put in place, the challenge to the old rule which invest the power of appointment with the P.A.(Development) to the District Collector stood suspended, this resulted in the elected Presidents of various village panchayats appointing Secretaries. Those persons are continuing in the job. Even during the pendency of the said writ petition, the Government has passed a new set of rules in G.O.Ms.No.113, dated 13.09.2023, framing a fresh set of rules for appointment of panchayat Secretaries. While Rules 3 and 4 provides for the appointing authority and the modes of appointment, the other rules relate to qualification and regularization.

4. Mr.P.Veerakathiravan, learned Additional Advocate General would submit that once the new rules have been put in place, the prayer for declaration that the old rules are ultra virus of the Constitution cannot be accepted. He also submits that in view of Clause 3 of Rule 26 of the new rules, namely, Tamil Nadu Village Panchayat Secretaries (Conditions of Service) Rules, 2013, the appointment made by panchayat Presidents hitherto will be protected.

5. In view of the same, the writ petitions are disposed of as having become infructuous.

6. W.A.(MD)No.1772 of 2023:



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The Government is aggrieved by the order of the Writ Court wherein notification for recruitment of panchayat Secretaries issued by the Collector was quashed since the very Government order which invested the powers to make such appointments in the P.A. to the Collector (Management) was stayed by this Court. It is now reported that the Government has framed new Rules vide G.O.Ms.No.113, dated 13.09.2023 governing the appointments of Secretaries of village panchayats and providing uniform procedure for appointment of panchayat Secretaries.

7. The copy of the G.O. is also being placed before us. The notification for recruitment has been quashed. Therefore, no recruitment pursuant to the notification has happened. The new rules have now come into force. It will be open to the authorities to recruit candidates under the new rules subject to sub clause 3 of Rule 26 of the new rules. It is stated that a panchayat Secretary has been appointed by the President on 23.06.2023, his appointment will stand protected by sub clause 3 of Rule 26 of new rules.

8. With the above directions, this writ appeal stands disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

[R.S.M., J.]

[L.V.G., J.]

23.08.2024



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NCC :Yes/No
Index :Yes/No
Internet: Yes
Sml/ Mrn

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Secretary to Government,
Rural Development & Panchayat
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Secretariat, Chennai-09.
- 2.The District Collector,
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Sivaganga.
- 3.The Personal Assistant (Development)
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R.SUBRAMANIAN, J.
and
L.VICTORIA GOWRI, J.

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