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W.P.(MD) No.20145 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.20145 of 2018

and

W.M.P.(MD) Nos.2963 & 4426 of 2019

M.Sathishkumar

... Petitioner

-VS-

1.The District Collector
Virudhunagar District
Virudhunagar

2.The Personal Assistant to Collector
(Development)
Virudhunagar District

3.The Block Development Officer
(Village Panchayat)
Sivakasi Panchayat Union
Virudhunagar District

4.Arul Prakasam

... 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 pertaining to impugned order passed by the third respondent dated 20.12.2018 vide proceedings Na.Ka.P3/1271/2018 and quash the same as illegal and unconstitutional, consequently direct the respondents 1 to 3 to appoint any one of eligible local candidates of Niraimathi Panchayat.

[Prayer amended *vide* Court order dated 20.12.2019 in W.M.P.(MD)No.2964 of 2019].

For Petitioner : Mr.G.Chandrasekar

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 to R3
Mr.B.Vinoth Kumar for R4

ORDER

This writ petition has been filed challenging the order dated 20.12.2018, passed by the third respondent, appointing the fourth respondent as Panchayat Secretary.



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2. The petitioner has challenged the impugned order, on the following grounds:

- (a) The fourth respondent did not submit an application with the official respondents pursuant to the recruitment notification seeking for appointment to the post of Panchayat Secretary. Without receiving any application, the fourth respondent has been illegally appointed as Panchayat Secretary.
- (b) The fourth respondent has not satisfied the eligibility criteria with regard to his residential status as per the recruitment notification. But, despite the same, he has been illegally appointed to the post of Panchayat Secretary.
- (c) The fourth respondent, without participating in the interview, was selected and appointed as a Panchayat Secretary, which is arbitrary and illegal.



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3. A counter affidavit has been filed by the official respondents stating that the fourth respondent has satisfied all the requisite criteria for being appointed to the post of Panchayat Secretary and that there is no illegality committed by them in appointing him as Panchayat Secretary. They would categorically contend that the fourth respondent belongs to the Taluk under which the village panchayat comes, wherein the post of Panchayat Secretary was vacant and the selection process took place. The fourth respondent participated in the interview along with the petitioner and he had secured more marks than the petitioner and only based on his merit, the fourth respondent was selected and appointed to the post of Panchayat Secretary and only based on the application submitted by the fourth respondent pursuant to the recruitment notification, the fourth respondent was appointed to the post of Panchayat Secretary. According to the official respondents, there is no arbitrariness or illegality committed by them in the appointment of the fourth respondent to the post of Panchayat Secretary.

4. Learned counsel for the petitioner would once again reiterate that the fourth respondent did not participate in the interview as only 25



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persons participated in the interview, including the petitioner. Therefore, he would submit that the fourth respondent has been arbitrarily and illegally appointed to the post of Panchayat Secretary. Learned counsel for the petitioner also reiterates the contention of the petitioner that the fourth respondent did not belong to the same village, where the vacancy for the post of Panchayat Secretary arose and therefore, the appointment of the fourth respondent is arbitrary and illegal. He would reiterate the contents of the counter affidavit of the official respondents and would submit that the appointment of the petitioner has been done in a proper manner and there is no illegality or arbitrariness in appointing the fourth respondent to the post of Panchayat Secretary.

5. Learned Government Advocate appearing for the official respondents has also placed on record the list of persons, who had participated in the interview and would submit that the fourth respondent had participated in the subject interview and only based on his merit, as the fourth respondent has secured more marks than the petitioner, he was appointed to the post of Panchayat Secretary.



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6. Learned Government Advocate appearing for the official respondents also placed on record a certificate, dated 30.12.2021, issued by the Village Administrative Officer, Vadapatti Village, Sivakasi Taluk, and would submit that as seen from the said certificate, the fourth respondent is residing within two kilometres radius from the place of the office of the subject panchayat and therefore, he has satisfied the residential criteria.

7. Though the learned counsel for the petitioner would vehemently contend that the fourth respondent did not participate in the interview, the petitioner has not produced any evidence to show that the fourth respondent did not participate in the interview and was selected despite the same. Excepting for producing a representation made by the petitioner raising apprehension with regard to the non-participation of the fourth respondent in the interview, the petitioner has not produced any clinching evidence to prove that the fourth respondent did not participate in the interview. However, on the other hand, the official respondents have placed on record the list of participants, who attended the interview and as seen from the same, it is clear that the fourth respondent participated in the interview along with the



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petitioner and only thereafter, he was selected and appointed to the post of Panchayat Secretary. As seen from the selection list, the fourth respondent has also secured higher marks than that of the petitioner. Therefore, the contention of the petitioner that the fourth respondent was selected and appointed to the post of Panchayat Secretary, without attending the interview, is incorrect and has to be rejected as there is no evidence produced by the petitioner before this Court to substantiate his claim that the fourth respondent has been appointed, without participating in any interview. The application filed by the fourth respondent seeking for appointment to the post of Panchayat Secretary has also been placed on record, which will go to show that only based on the said application, the fourth respondent was appointed to the post of Panchayat Secretary based on his merit.

8. Even though the petitioner contends that the fourth respondent did not satisfy the residential criteria as per the recruitment notification, as according to the petitioner, the fourth respondent does not belong to the same village, the same has also got to be rejected, since the official respondents, apart from categorically contending in their counter affidavit that the fourth respondent has satisfied the residential criteria, they have also produced the



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certificate dated 30.12.2021, issued by the Village Administrative Officer, to prove that the fourth respondent is residing within two kilometres radius from the place of the said subject panchayat, which satisfies the residential criteria prescribed under the recruitment notification. The fourth respondent has satisfied the rule with regard to the residential criteria, namely, Rule 5(ii) of the Tamil Nadu Panchayat Secretaries (Conditions and Service) Rules, 2013.

9. For the foregoing reasons, this Court is of the considered view that the challenge to the appointment of the fourth respondent to the post of Panchayat Secretary made by the petitioner does not deserve any merit.

10. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

24.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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ABDUL QUDDHOSE, J.

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