



W.P(MD)No.31308 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 30.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P(MD)No.31308 of 2023

and

W.M.P(MD)No.26844 of 2023

Kanimozhi

... Petitioner

Vs.

1.The District Collector,
Karur District, Karur.

2.The Block Development Officer (V.P),
Kadavur Panchayat Union,
Karur District.

3.The President,
Vellapatti Village Panchayat,
Kadavur Taluk,
Karur District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order of second respondent vide proceedings in Na.Ka.Aa3/1964/2023 dated 06.11.2023 and consequential relieving order passed by the second respondent vide



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proceedings in Na.Ka.Aa3/1964/2023 dated 19.12.2023 and quash both the same as illegal and unconstitutional AND consequently direct the respondents 2 and 3 to allow the petitioner to continue as Panchayat Secretary in the third respondent panchayat.

For Petitioner : Mr.S.Balamurugan

For Respondents : Mr.J.K.Jeyaseelan
Government Advocate

ORDER

The present writ petition has been filed to call for the records pertaining to impugned order of second respondent vide proceedings in Na.Ka.Aa3/1964/2023 dated 06.11.2023 and consequential relieving order passed by the second respondent vide proceedings in Na.Ka.Aa3/1964/2023 dated 19.12.2023 and quash both the same as illegal and unconstitutional and consequently direct the respondents 2 and 3 to allow the petitioner to continue as Panchayat Secretary in the third respondent panchayat.

2. The petitioner was appointed as Panchayat Clerk on part time basis on 31.03.1999 and posed at Z.Vellapatti Village Panchayat. She



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was brought under regular time scale in the year 2017 and presently, she was working as Panchayat Secretary in the third respondent Panchayat. While so, the impugned order of transfer dated 06.11.2023 came to be passed. Consequent to the same, the relieving order was passed on 19.12.2023. Challenging the same, this writ petition came to be filed.

3. The learned counsel appearing for the petitioner submitted that a careful reading of the impugned transfer order dated 06.11.2023 itself would reveal the *mala fide* intention of the competent authority in issuing the said transfer order and on that ground, he pressed for interference of the impugned order and the consequential relieving order.

4. Per contra, Mr.Jeyaseelan, learned Government Advocate filed counter affidavit on behalf of the second respondent and vehemently submitted that the question of *mala fides* will never arise and Reference No.2 in the impugned order dated 06.11.2023 with respect to the advice of Block Development Officer (Village Panchayat) dated 06.11.2023 is pertaining only to the fact that the petitioner had been serving in the Village Panchayat of Vellapatti for 24 long years on the basis of which,



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advised for effecting transfer. However, neither in the counter nor in his argument, the word in the impugned order “for administrative exigency” is explained. Refusing the allegation of *mala fides*, the learned Government Advocate pressed for dismissal of the writ petition citing the reason that the petitioner has already joined in the transferred Village Panchayat, namely, Vellapatti.

5. Heard the learned counsels on either side and perused the materials available on record.

6. The learned counsel appearing for the petitioner placed before this Court another transfer order dated 19.01.2024 by which three other Village Panchayat Secretaries were transferred in which one Murugesan who was transferred to Vellapatti vide impugned order dated 06.11.2023 has been further transferred to Pappayampadi Village Panchayat. Hence it is clear that currently the post of Village Panchayat Secretary is vacant.

7. That apart, the learned Government Advocate is not able to fairly explain the details in Reference No.2 of the impugned order dated 06.11.2023 and the reason behind “administrative exigency” on the basis



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of which the said transfer order has been issued. Though transfer is incident of service, if the order of transfer reveals an iota of punitive nature, in that case, the extraordinary powers of this Court would be invoked under Article 226 of Constitution of India, necessitating to interfere with the impugned transfer order for the sole purpose of the petitioner having been denied with the opportunity of hearing for the irregularity or administrative necessities which have arisen causing the issuance of such a transfer order.

8. In view of the same, I hereby quash the impugned transfer order dated 06.11.2023 and the consequential relieving order dated 19.12.2023. This writ petition is allowed. There shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

30.01.2024

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



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L.VICTORIA GOWRI, J.

MGA

To

- 1.The District Collector,
Karur District,
Karur.
- 2.The Block Development Officer (V.P),
Kadavur Panchayat Union,
Karur District.
- 3.The President,
Vellapatti Village Panchayat,
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