



W.P.(MD)No.7703 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 13.02.2025

CORAM:

THE HON'BLE MR.JUSTICE M.JOTHIRAMAN

W.P.(MD)No.7703 of 2019

and

W.M.P(MD)Nos.4228, 6120 and 6121 of 2019

V.Chelladurai

... Petitioner

Vs.

1. The Assistant Director (Panchayats),
Tuticorin District.

2. The Block Development Officer,
Kayathar Panchayat Union,
Tuticorin District.

3. S.Pappathi

... 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 relating to the impugned order of the 2nd respondent in Thi4/879/2018 dated 09.03.2019, appointing the 3rd respondent as Panchayat Secretary and quash the same and consequently appoint the petitioner as Panchayat Secretary in Therku Mayilodai Village Panchayat.



W.P.(MD)No.7703 of 2019

WEB COPY

For Petitioner	: Mr.P.P.Alwin Balan
For R1	: Mr.G.V.Vairam Santhosh Additional Government Pleader
For R2	: Mr.M.Murugan
For R3	: Mr.D.Nallathambi

ORDER

Under assail in the order dated 09.03.2019 passed by the 2nd respondent, the Block Development Officer, Kayathar Panchayat Union, appointing the 3rd respondent as Panchayat Secretary.

2. The case of the writ petitioner is that the 2nd respondent, the Block Development Officer, Kayathar Panchayat Union, Tuticorin District, herein has called for the application to fill up the post of Panchayat Secretary for five villages namely, Kappulingampatti, K.Sivagnanapuram, Podupatti, Therkkumayilodai and Therkkuvandanam villages. Out of which, Therkkumayilodai is the petitioner's village and the post shall be filled from SC category as per communal roster Act. The petitioner is the resident of Therkkumayilodai Village Panchayat and have necessary qualification for the post of Panchayat Secretary. The petitioner applied for

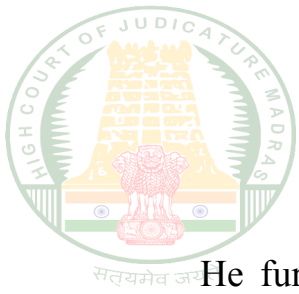


W.P.(MD)No.7703 of 2019

WEB COPY

the above said post along with Community Certificate, Educational Qualification and address proof. Thereafter, the petitioner was called for personal interview on 21.08.2018 by the 2nd respondent, Block Development Officer, Kayathar Panchayat Union, vide letter, dated 30.07.2018. The petitioner had successfully attended the interview. Though the petitioner is the senior most person in the employment seniority and possess all necessary qualification, he was not appointed as Panchayat Secretary. Without any basis, the 3rd respondent herein was appointed for the above said post. Hence, this Writ Petition came to be filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner being the senior most person in the employment seniority list, was not appointed as the Panchayat Secretary, instead the 3rd respondent has been appointed for the above said post. He would further submit that the 3rd respondent is not even a resident of Therkkumayilodai Village and only through her political power she migrated to the Therkkumayilodai Village and was subsequently appointed for the above said post. Therefore, the appointment order issued in favour of the 3rd respondent is in gross violation of principles of natural justice.

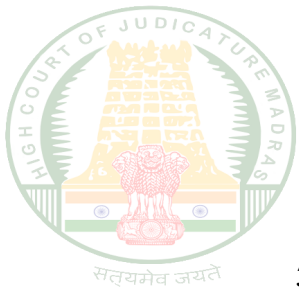


W.P.(MD)No.7703 of 2019

WEB COPY

He further strongly relied on the notification in Condition No.I, which does not mention priorities, and asserts that those claiming priority, must submit their relevant certificates. Hence, the same is liable to be quashed and pressed to appoint the petitioner to the said post.

4. Per contra, learned Additional Government Pleader appearing for the 1st respondent would submit that the notification was issued by the 2nd respondent herein and called for application to fill up the post of Panchayat Secretary for five villages, namely, Kappulingampatti, K.Sivagnanapuram, Podupatti, Therkkumayilodai and Therkkuvandanam. The present writ petition claims that the post for Therkkumayilodai village should be filled for Scheduled Caste category as per the communal roster, but there is no priority in the cadre. He would further submit that the appointment of the 3rd respondent has been made in accordance with the procedure. Hence, he pressed for the dismissal of the writ petition.



W.P.(MD)No.7703 of 2019

WEB COPY

5. The learned Counsel appearing for the 3rd respondent submitted that the third respondent is also a resident of Therkkumayilodai village and applied for the said post, possessing the necessary educational and other qualification. The concerned authority, after considering all the aspects, appointed the third respondent, and there has been no violation in the appointment of the third respondent. The third respondent has been appointed as Panchayat Secretary and has been working.

6. I have considered the submissions made on either side and perused the materials available on records.

7. It is seen from the records that the 2nd respondent, the Block Development Officer, Kayathar Panchayat Union has called for the application to fill up the post of Panchayat Secretary for five villages, vide notification, dated 26.03.2018. Out of the five villages mentioned in the notification, the post for Therkkumayilodai village should be filled from the Scheduled Case category as per communal roster. However, there is no mention about the priorities category in the said notification. The main ground raised by the petitioner is that he is the senior most person in the



W.P.(MD)No.7703 of 2019

WEB COPY

employment seniority but unfortunately, the 2nd respondent has appointed the 3rd respondent for the above said post. However, in the notification itself there is no mention about the priority category, it only refers to the Scheduled Caste category as per the communal roster. The counter filed by the 2nd respondent in paragraph no.7 is as follows:-

“I submit that the grounds are neither factually tenable nor legally sustainable. I submit all the procedures for public employment have scrupulously been followed. List of candidates have been called for from employment exchange and applications were invited from open market by giving due advertisement in News Papers with wide publicity. Communal Roaster and priority category has been followed. Selection committee was constituted. Candidates were interviewed. Based on eligibility, general performace in interview by such eligible candidates, were selected. Both petitioner and 3rd respondent were found eligible and were interviewed. But 3rd respondent was found suitable and were interviewed. But 3rd respondent was found suitable and meritorious. On the basic qualification required for the post of panchayat secretary qualification is SSLC, petitioner had secured 250 marks and 3rd respondent had secured 409 marks. Further 3rd respondent had performed well in the interview. The age will be considered as on added advantage only if all other eligibilities are equal and same. In this case, 3rd respondent has scored higher marks in SSLC than the petitioner and performed well in the interview. Hence interview panel committee considered the 3rd respondent as the right choice for the post of panchayat secretary than the petitioner.”

8. It is pertinent to mention that an individual can challenge the selection process on the grounds of malafide or other patent irregularities



W.P.(MD)No.7703 of 2019

WEB COPY

committed in the selection process. The judicial review of an administrative action will be justified in case of malafide (or) procedural irregularities. It is not the function of a court of law sitting writ jurisdiction to convert itself into a court of appeal over the decisions of the selection committee. In the instant case on hand, it is not explained to the satisfaction of this Court that, there is a malafide or procedural irregularities made by the selection committee. The writ petitioner has failed to produce materials to substantiate the allegations levelled against the selection committee or against the third respondent. Therefore, the contention of the learned Counsel for the petitioner is not acceptable, and there is no merit in this case. Hence, this petition is liable to be dismissed.

9. Accordingly, this Writ Petition stands dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

13.02.2025

NCC :yes/No
Index :yes/No
Internet:yes/No
rgm



WEB COPY



W.P.(MD)No.7703 of 2019

M.JOTHIRAMAN, J.

rgm

To

1. The Assistant Director (Panchayats),
Tuticorin District.
2. The Block Development Officer,
Kayathar Panchayat Union,
Tuticorin District.

W.P.(MD)No.7703 of 2019

and

W.M.P(MD)Nos.4228, 6120 and 6121 of 2019

13.02.2025