

**(2022) 03 KL CK 0056**

**In the High Court Of Kerala**

**Case No : Writ Petition (C) No.16105 Of 2021**

President Thiruvallloor Grama Panchayath, Panchayath Office,  
Kozhikode District 673541

**APPELLANT**

**Vs**

Deputy Director Of Panchayaths

**RESPONDENT**

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**Date of Decision : 08-03-2022**

**Acts Referred:**

Kerala Panchayat Raj Act 1994 — Section 80, 180, 189

Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995 — Rule 29, 29(3)

**Citation : (2022) 03 KL CK 0056**

**Hon'ble Judges : T.R.Ravi, J**

**Bench : Single Bench**

**Advocate : T.Sethumadhavan, M.V.Balagopal, Preethi. P.V., Zubair Pulikkool,  
Vishnu Bhuvanendran, B.Anusree, B.S.Syamanthak**

**Final Decision : Dismissed**

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## **Judgement**

T.R. Ravi, J

1. The writ petition has been filed by the President of the Thiruvallloor Grama Panchayat challenging Ext.P3 directions issued by the Deputy Director of Panchayats. The Deputy Director is the 1st respondent and the Secretary of the Panchayat is the 2nd respondent. The 3rd respondent is the person who was appointed as a Technical Assistant in the Panchayat and the 4th respondent is the State of Kerala.

2. By Government Order dated 27.06.2012, permission was granted for appointment of Technical Assistant in all the Local Self Government Institutions in the State, for giving technical assistance for the e-governance activities. Pursuant to the above Government Order, the Thiruvallloor Grama Panchayat appointed the 3rd respondent as the Technical Assistant. The appointment was on 04.03.2013 and for a period of one year on a contract basis. No fresh contracts had been entered into with the 3rd respondent from 01.04.2017. The Panchayat Council had decided to renew the contract till 31.03.2019, but a

formal contract was not executed. Thereafter on 07.04.2020, the steering committee of the Panchayat had also decided to renew the contract of the 3rd respondent till 31.03.2021. No formal contract was however executed. The 3rd respondent continued to be the employee of the Panchayat. On 12.04.2021, the 3rd respondent applied for extension of his tenure till 31.03.2022 based on Government Order No.265/2021 dated 01.02.2021. The application was not entertained, since the Election Code of Conduct was in force. The application was placed before the Council on 27.05.2021, on which day the Council decided to decline the renewal of the contract of the 3rd respondent. The 3rd respondent had submitted a complaint on 11.05.2021 to the 1st respondent stating that even though he has been employed with effect from 04.02.2013, he has been informed by the 2nd respondent that he need not attend work from 03.05.2021. On 27.05.2021, the 1st respondent called for a report from the 2nd respondent. The 1st respondent after receipt of the report from the 2nd respondent issued Ext.P3 order on 26.07.2021, in which it was found that the decision taken by the Panchayat on 27.05.2021 is against the Government Order dated 01.02.2021, which directs that the persons who have been appointed as Technical Assistants on the basis of the order dated 27.06.2012 shall be granted extension of service from 01.04.2021 to 31.03.2022 on the basis of a performance appraisal. The order dated 01.02.2021 has been produced as Ext.P6. The writ petition was initially filed challenging Ext.P3 order.

3. According to the petitioner, the 1st respondent does not have any authority to issue order Ext.P3. It is contended that in the matter of appointment of contract employees or contingent staff, the powers are vested with the Panchayat Committee and the Panchayat alone has control over such officers as per Section 180 of the Kerala Panchayat Raj Act (hereinafter referred to as the 'Act'). It is further submitted that Rule 29 of the Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995 (hereinafter referred to as the Rules), relates to forwarding of minutes by the Secretary with dissenting note, if any, with the approval of the President to the officer authorised by the Government. Such a course of action can be followed by the Secretary if he is of the opinion that a decision or resolution passed by the Panchayat has not been passed in accordance with law or is ultra vires the powers conferred by the Act or, if implemented, it may endanger human life, health or public safety. The petitioner contends that the 1st respondent is not having any authority to direct the 2nd respondent to invoke powers under the above Rule as against the resolution passed by the Panchayat Committee on 27.05.2021. The petitioner submits that the 1st respondent is an officer who has control over the postings or transfers of regular employees, their promotions and disciplinary matters and such control does not extend over contingent or contract employees regarding whom the absolute jurisdiction is with the Panchayat. It is submitted that whether a contract employee should be granted an extension of service is within the prerogative of the Panchayat as per Section 80 of the Act and the Panchayat can consider all relevant factors and decide the issue. It is submitted that the

direction issued by the 1st respondent to invoke Rule 29(3) of the Rules, is also without any legal basis since Rule 29(3) is to be exercised on the subjective satisfaction of the Secretary regarding which there cannot be any dictate by a higher officer.

4. The 1st respondent has filed a counter affidavit. Ext.R1(b) produced along with the counter affidavit is the order G.O.(Rt)No.265/2021/LSGD dated 01.02.2021, whereby the service of Technical Assistants was permitted by the Government.

The 1st respondent has produced Ext.R1(a) which is the minutes of a meeting held on 31.01.2018 convened under the chairmanship of the then Minister for Local Self Government Institutions to discuss about giving extension to the Technical Assistants appointed in various Local Self Government Institutions. The minutes records the decision to consider the grant of extension of service of Technical Officers on the basis of appraisal by a committee consisting of the Deputy Director of Panchayats and the District Officer, Information Kerala Mission. The counter affidavit reiterates the fact that the decision of the Panchayat Committee taken on 27.05.2021 is against the Government Order dated 01.02.2021.

5. The 2nd respondent has filed a counter affidavit, wherein the details of the appointment of the 3rd respondent has been narrated. The 3rd respondent has filed a counter affidavit contending that the writ petition is an abuse of the process of the Court. The 3rd respondent has produced Ext.R3(f) judgment dated 06.08.2021 issued by this Court. This Court has specifically found in similar circumstances that the contract of the petitioner therein must be deemed to have been extended until 31.03.2022, except if there is any complaint against him found through an appropriate performance appraisal. This Court directed the Panchayat and its Secretary not to terminate the contract of the petitioner therein, leaving full liberty to conduct a proper performance appraisal. Ext.R3(g) is another judgment issued by this Court in the case of another similarly situated person where again, the effect of the Government Order permitting extension till 31.03.2022 was taken note of and liberty was granted to the Panchayat to initiate appropriate performance appraisal.

6. The 3rd respondent has also placed before me the judgment of this Court in W.P.(C)No.17891 of 2018 and connected case. The above said case related to retention of the Technical Assistants. Challenge had been laid at the instance of the President of the Panchayat and the Government Order whereby the service of the Technical Assistants was extended had been put in issue in the said case. This Court after detailed consideration of the entire issues held that it was well within the power of the Government to issue such directions going by Section 189 of the Act. This Court found that the Government has every authority to issue guidelines in matters relating to office management or formulation of schemes in accordance with the State or National policy. After noting that appointments of Technical Assistants were permitted by the Government in the

Panchayats for the purpose of facilitating e-governance, it was held that in exercise of the very same power, the Government can also direct extension of such appointments. This Court found that if the purpose for which the appointment was permitted is not achieved, the direction to extend the term of service of the Technical Assistants cannot be said to be without authority. It is further found that the remuneration to the Technical Assistants is paid from the plan fund, which includes a share of the State Government also and it is not correct to say that it is the Panchayat who pays the Technical Assistant. This Court specifically found that such directions are not an invasion into the independence of self-governance of the Panchayats.

7. I am in complete agreement with the view expressed in the above judgment. That the order dated 01.02.2021 is well within the power of the Government, has been held by this Court in W.P.(C) Nos.17891 of 2018 and 18479 of 2018. Ext.P3 which is a direction issued by the 1st respondent to the 2nd respondent to the effect that the 2nd respondent must take steps under Rule 29(3) of the Kerala Panchayat Raj (Procedure for Panchayat Meeting) Rules, 1995 against the decision taken by the Panchayat on 27.05.2021 since it is against the Government Order, cannot hence be faulted. Ext.P3 cannot be treated as a dictate.

8. The petitioner has by way of I.A.No.1 of 2022, sought to amend the writ petition with an additional prayer for quashing Exts.P6, P7 and P8 produced along with the petition. Ext.P6 is the Government Order dated 01.02.2021. Ext.P7 is the minutes of the meeting convened on 31.01.2018, whereby the appraisal committee was formed and Ext.P8 is the order dated 27.06.2012, whereby it was decided to appoint Technical Assistants in the Panchayats. Since this Court has already held that the Government has power to direct appointment of Technical Assistants as well as for extension of their term of appointment in the judgment referred above, I do not think it is necessary to go into the above issue over again. In view of the discussions above, the petitioner is not entitled to any relief in this writ petition.

In the result, the writ petition is dismissed. The petitioner and the 2nd respondent are directed to take necessary steps to extend the term of appointment of the 3rd respondent till 31.03.2022 as already directed by the Government in the order dated 01.02.2021. Necessary orders shall be issued within two weeks from the date of receipt of a copy of this judgment.