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W.P.No.28482 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.11.2023

CORAM:

THE HON'BLE Mrs.JUSTICE **V.BHAVANI SUBBAROYAN**

W.P.No.28482 of 2018
&
W.M.P.No.33236 of 2018

1.K.Chandran

2.P.Dhanabalan

3.M.V.Andiappan

4.K.Seerangaraj

... Petitioners

Vs.

1.Government of Tamil Nadu
Rep by its Principal Secretary
Health and Family Welfare Department
Fort St.George
Chennai-600 009

2.The Director of Public Health & Preventive Medicine
Office of the Director of Public Health &
Preventive Medicine and Chief Registrar of Births and Deaths
DMS Compound
Teynampet, Chennai-600 018

... Respondents

Writ Petition filed under Article 226 of the Constitution of India for issuance of

Writ of Certiorarified Mandamus calling for the records pertaining to the order



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passed by the 1st respondent in its G.O.Ms.No.443, Health and Family Welfare (AB2)

Department dated 26.09.2018 quash the same direct the respondents to follow the

Section 7 of the Registration Birth and Deaths Act, 1969 for giving appointment as

Registrar of Births and Deaths to the petitioners.

For Petitioner : Mr.P.Ganesan

For Respondents : Mr.L.S.M.Hasan Fizal, AGP

ORDER

This Writ petition has been filed for issuance of Writ of Certiorarified Mandamus calling for the records pertaining to the order passed by the 1st respondent in its G.O.Ms.No.443, Health and Family Welfare (AB2) Department dated 26.09.2018 quash the same direct the respondents to follow the Section 7 of the Registration Birth and Deaths Act, 1969 for giving appointment as Registrar of Births and Deaths to the petitioners.

2. The petitioners are working as Sanitary Inspector at Coimbatore Corporation, Coimbatore District for the past 25 years without any promotional opportunity. At this juncture, the 1st respondent all of sudden passed G.O.No.443 Health and Family Welfare (AB2) Department dated 26.09.2018 without any application of mind and any not based on the any rational or based on any study



report as per the Section 7(1) of the The Registration of Birth and Deaths Act, 1969.

as the petitioners will be severely affected they have filed the present Writ Petition challenging the G.O.Ms.No.443, Health and Family Welfare (AB2) Department dated 26.09.2018.

3. The petitioners were appointed in various categories and they were all regularised as Sanitary Inspectors and they have been working in the Coimbatore Corporation. According to the petitioners as per Sec.7(1) of the Registration of Births and Deaths Act, 1969, Registrars are appointed for each local area within the jurisdiction of a Municipality, Panchayat or other local authority or any other area or a combination of any two or more of them; provided that the State Government may appoint in the case of a Municipality, Panchayat, or other local authority any officer or other employee thereof as a Registrar. Every Registrar shall without fee or reward enter in the register maintained for the purpose all information given to him under Section 8 or Section 9 and shall also take steps to inform himself carefully of every birth and every death which takes place in his jurisdiction and to ascertain and register the particulars required to be registered. Every Registrar shall have an office in the local area for which he is appointed. Every Registrar shall attend the office for the purpose of registering births and deaths on such days and at such hours as the Chief Registrar may direct and shall cause to be placed in some conspicuous place on or near the outer door of the office of the Registrar a board bearing in the local



language, his name with the addition of Registrar of Births and Deaths for the local areas for which he is appointed and the days and hours of his attendance. The Registrar may with prior approval of the Chief Registrar, appoint Sub-Registrars and assign to them any or all of his powers and duties in relation to specified areas within his jurisdiction.

4. The learned counsel for the petitioners would submit that they are eligible to be appointed as Registrars of Coimbatore Corporation to register births and deaths which has been followed from 1977 onwards. The G.O.Ms.No.659, Family and Health and Welfare Department dated 13.03.1977 makes the Sanitary Inspector V is eligible to be appointed as Registrar to carry out the births and deaths in the local area.

5. The 1st respondent taking a decision based on the recommendation made by the 2nd respondent and brought the post of multi-purpose Supervisor (Male) of Primary Health Center for Births and Deaths Registrars to the District Headquarters Hospitals, Government Medical College Hospitals, Taluk and Non-Taluk Hospital, ESI Hospital and Government women and children Hospital situated in Village Panchayats, Town Panchayats, Municipalities and Corporation (Except Chennai Corporation) vide G.O.No.443 Health and Family Welfare (AB2) department dated 26.09.2018 to carry out the registration of Births and Deaths duty and also the 1st



respondent directed to amend suitably the concerned rules. The petitioners submits that order of appointment/transfer the service is per se illegal and submitted that as per the Municipalities they have powers to appoint as per the 12th Schedule of the Indian Constitution Act, 1991 in which 18 responsibilities were given to the Municipalities and local bodies to discharge were taken away.

6. The Tamil Nadu District Municipalities Act-1920 (Tamil Nadu Act V of 1920) provision 286 specifies compulsory registration of vital statistics and accordingly the Municipal Council has to register all births and deaths occurring in the Municipality. The department of health and family welfare department issued G.O.Ms.No.659 dated 13.03.1977, and as per the said G.O the Sanitary Inspectors were taking care of them and as per G.O.Ms.No.443 the said power has been taken away by the authorities concerned and the same is illegal and liable to be quashed. He would also further submit that when two registered unit function in the same locality and one is from another department apparently violates the Art.243(W) Constitution of India and the existing system of births and deaths registration is being updated and equipped then and there in Municipalities and Corporations as they have sufficient and sound infrastructure and other facilities and quick and qualitative service to the public and the births and deaths occurrences happen in the purview of the local body and it should be brought under one umbrella and therefore the impugned Government

Orders is liable to be set aside.



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7. According to him the 1st respondent failed to see the aspect in carrying out the registration of births and deaths by the respective officer as per Government Order in G.O.Ms.No.659 of Health and Family Welfare department dated 13.03.1977. Infact , the 1st respondent passed the Government Order and creating the post holder is violative of principles of natural justice. The action of the 1st respondent permitting to carry out the births and deaths duty with large cover the areas dependently would create more confusion and not give proper registration among that area and prays that this Court should interfere with the impugned order of the 1st respondent and set aside the same.

8. Heard Mr.P.Ganesan, learned counsel appearing for the petitioners and Mr.L.S.M.Hasan Fizal, learned Additional Government Pleader appearing for the respondents.

9. Learned AGP filed the counter denying all the averments and would submit that the Director of Public Health & Preventive Medicine, the 2nd respondent is Chief Registrar of Births and Deaths and the executive authority in the State for carrying into execution of the provisions of the Act and the rules made there under Sub-Section (3) of Sec. 4 of the Registration of Births and Deaths Act, 1969 (Act 18 of 1969) and as per the Act came into force with effect from 01.04.1970 in Tamil Nadu.



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In exercise of powers conferred U/s. 30 of the Act, the State Government framed rules titled as “The Tamil Nadu Registration of Births and Deaths Rules 1977” and notification issued in G.O.Ms.No.658, Health and Family Welfare Department dated 15.03.1977, In supersession of the above said Rule revised dated 29.12.1999 came into force as “ The Tamil Nadu Registration of Births and Deaths Rules 2000” and notification were issued in G.O.Ms.No.528, Health and Family Welfare (AB2) Department dated 29.12.1999 and came into force with effect from 01.01.2000. As per the said Sec. 7, the Act provides that State Government may appoint a Registrar for each local area comprising the area within jurisdiction of a Municipality, Panchayat or other local authority or any other area or a combination of any two or more of them provided that the State Government may appoint in the case of a Municipality, Panchayat or other local authority, any officer or other employee thereof as a Registrar. Accordingly, G.O.Ms.No. 659, Health and Family Welfare Department dated 15.03.1977, the Registrar General India being the Central Authority for implementation of the said Act has directed all the Chief Registrars of Births and Deaths to open registration centres within the medical institutions including District Hospitals vide Letter.No.6/3/98/VS (CRS) dated 03.06.1999 so that the person who accompany the mother in case of birth and the person who accompany the deceased can approach the Registrar for registering the occurrence of the vital events and collect the certificate immediately U/s.12 and also it will provide an opportunity to note any mistakes in the registration records immediately for



effecting correction by the birth and death Registrar to save the difficulties in correcting the birth and death Registration records at a later date.

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10. Learned AGP relied on the judgment of the Hon'ble Supreme Court in Committee for Legal Aid to poor Vs. Union of India and Ors, reported in (2011) 2 SCC 797 has held as follows:

“ .. India is signatory to the UN Convention on the “Rights of the Child 1989” which states in Article 7 that the child shall be registered immediately after birth. Similarly the National Population Policy 2000 has set a goal of achieving 100% registration of birth by 2010”.

The State Government ordered for appointment of the Multipurpose Health Supervisors (Male) as Registrars for all Government Medical Institutions (except Chennai Corporation) in G.O.Ms.No.443, Health and Family Welfare (AB2) Department dated 26.09.2018. Hence, the appointment of Registrars has not in anyway affected the promotional opportunity of the petitioners. The Chief Registrar of Births and Deaths who being the Chief Executive Authority of the State proposed the Multi purpose Health Supervisors (Male) as Birth and Death Registrars for all Government Medical Institutions to have uniformity in appointment of Registrars and this is not infringing the powers of the Registrars under Sub-Section (5) of Sec. 7 of



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the Act. The State in order to simplify the registration work and to improve the services to public has implemented the appointment of Multi purpose Health Supervisors (Male). The Registrar General India, being the Central Authority for the implementation of the said Act, has directed all the Chief Registrars of Birth and Deaths to open registration centres within the medical institutions including District Hospitals in vide Letter No.6/3/98/Vs (CRS) dated 03.06.1999, so that the person accompanying cal approach the Registrar for registering the occurrence of the vital events and collect the certificate immediately U/s. 12 of the Act. It is submitted that at present 65% of the deliveries take place in Government Institutions and 62% of the Institutional deaths occur in Government Institutions, since the Government Hospitals take care of all kinds of patients. The Sanitary Inspectors of Urban Local Bodies are the Birth and Death Registrars for their jurisdiction. They are looking after both the jurisdictional registration unit and Government Institutions in addition to their regular official work prior to the issue of G.O.Ms.No.443, Health and Family Welfare (AB2) Department dated 26.09.2018. Hence, the Multipurpose Health Supervisors (MHPS (Male) already appointed as Birth and Death Registrars for primary health centres in G.O.Ms.No.204 Health and Family Welfare Department, dated 15.07.2009 have been nominated for the above appointment and there is no intention to create a classification among the Registrars and the Sanitary Inspectors of Municipalities continue to carry out their job functions as birth and death Registrar for the events occurring in Private Medical Institution and domiciliary events pertaining to their



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jurisdiction. Prior to coming into force of the Act 18 of 1969, registration was done under the rules made U/s. 286 of the Tamil Nadu District Municipalities Act. After the Act 18 of 1969, the rules made under the Municipal Act was repealed with effect from 15.03.1977. As stated in Sec.286 of the said Act V of 1920, Registration of Births and Deaths are enforced as prescribed under Act 18 of 1969 and the Tamil Nadu Registration of Birth and Death Rules, 2000. The Government Order issued to appoint Registrar in Medical Institutions for registering the births and deaths occurring in Medical Institution alone and performing the duties of Registrar by the Multipurpose Health Supervisor (Male) as a Government employee. The appointment of Registrars in G.O.Ms.No.443, Health and Family Welfare Department dated 26.09.2018 envisages the availability of the Registrar inside the premises of the Government Hospitals with an objective to issue free birth certificate for the deliveries occurring in Government Hospitals on the same day or prior to the discharge of the mothers from the hospital under Sec.12 of the said Act facilitating the complete coverage of large number of births and deaths taking place in the Government Institutions and also it provides an opportunity to note any mistakes in registration records for effecting correction by the Birth and Death Registrar will save the difficulties in correcting the registration records at later date. The Government have appointed Birth and Death Registrar in certain local areas (project areas) in G.O.Ms.No.866, Health and Family Welfare Department dated 18.05.1979. 1920

(Act V of 1920) envisages the compulsory registration of vital



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NOTIFICATION-I

In exercise of powers conferred by sub-section (1) of Section 7 of the Registration of Births and Deaths Act 1969 (Central Act 18 of 1969) the Governor of Tamil Nadu hereby appoints the officers specified in column (1) of the Table below as the Registrar for the Local area specified in the corresponding entries in the column (2) thereof.

THE TABLE

<i>Officer(1)</i>	<i>Local area(2)</i>
Chief Medical Officer	Bharat Heavy Electrical Limited, Kilasapuram Township Tiruchirapalli District
Chief Health Inspector	Golden Rock, Railway Colony, Tiruchirapalli District
Sanitary Officer	Neyveli Township, South Arcot District
Health Inspector	Papanasan project, Tirunelveli District
Officer(1)	Local area(2)
Health Inspector	Sholayar Nagar, Valparai Sub-Taluk, Coimbatore District
Supervisor/Civil	Sholayar Nagar, Valparai Sub-Taluk, Coimbatore District
Health Inspector	Periyar Dam Project, Madurai District
Health Inspector	Cordite Factory, Aruvankadu, The Nilgiris District

11. Therefore, the Government Order in G.O.Ms.No.443, Health and Family Welfare Department dated 26.09.2018 has not granted power to set of people as stated by the petitioners. Under the above circumstances, there is no violation of any law, rule or code and no powers transferred from Urban Local bodies. The Hon'ble



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Supreme Court in W.P.(Civil) No.37 of 2009 and the powers empowered with the State Government U/s. 7(1) of the Act 18 of 1969 Act with an objective to issue free birth certificate for the deliveries occurred at Government Medical Institutions before the discharge of mother, State Government is empowered under Sec.7(1) of the said Act issued appointment of Multi Purpose Health Supervisors (Male) as Birth and Death Registrars for the Government District Headquarters Hospitals, Taluk and Non Taluk Hospitals, Government Medical College Hospitals, Employees State Insurance Hospitals and Government Women and Children Hospitals situated in Village Panchayats, Town Panchayats, Municipalities and in Corporations except Chennai Corporation. Hence, it is not going to affect the work of the petitioners and prayed for dismissal of the Writ Petition.

12. On going through the averments of both the parties, it is to be seen that there is no reason to interfere with the affairs of the Corporations and it is clear that as per Sec.7(1) the Sanitary Workers are also carrying out the registration of births and deaths within their jurisdiction and informing the hospital authorities. This is a case where the Government Institutions and Government Hospitals wherein the Multipurpose Health Supervisors (Male) are registering the births and deaths and issuing the certificates within a short period. This cannot be a reason for quashing the said G.O and this G.O does not take away the powers of the said Sanitary Inspectors within the aid Corporation and if at all the Corporation has done so there is no such



statistics produced before this Court to show that their work have been taken away by the Multipurpose Health Supervisors (Male) and they are interfering with their jurisdiction. The said G.O was issued for the convenience of the general public. The learned Additional Government Pleader also submitted that as per Civil Registration System the revamped registration of births and deaths was implemented from 01.01.2000. The Registration Hierarchy is Chief Registrar of Births and Deaths (Director of Public Health and Preventive Medicine), Deputy Chief Registrar (Joint Director (SBHI)), District Registrars (DRO), Additional District Registrars (DDHS), Joint District Registrars (AD(SBHI) and Registrars. Accordingly departments involved are Municipal Administration (Corporation and Municipalities), Town Panchayats, Revenue Administration, Health and Police. They can approach for registering birth or death as per provision of Sec. 7 (2) of the RBD Act, 1969.

<i>Local Area</i>	<i>Birth and Death Registrars</i>
Corporation	Sanitary Inspector
Municipality, Township	Sanitary Inspector
Town Panchayats	Executive Officer/Sanitary Inspector
Village Panchayats	Village Administrative Officer
Primary Health Centres& Govt Medical Institutions	Health Inspector
Cantonment	Sanitary Inspector
Estates/Plantations	Manager

13. Accordingly, the same can be carried out in the online and can be downloaded by the public seeking for appropriate copies in the place of occurrence



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before the concerned authorities.

<i>Place of occurrence</i>	<i>Authority</i>
Municipality and Corporations	Commissioner
Town Panchayat, Village Panchayat and Primary Health Centre	Sub Registrar of Assurances
Cantonment	Executive Officer
Greater Chennai Corporation	Certificates are available online in the Corporation Website.

14. In view of the above said position, the petitioners apprehension is unwarranted and this Court is not inclined to interfere with the order passed by the Government and the Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

23.11.2023

Index:Yes/No
Internet:Yes/No
Speaking / Nonspeaking order
kpr

V.BHAVANI SUBBAROYAN J.

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To
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1.The Principal Secretary
Government of Tamil Nadu
Health and Family Welfare Department
Fort St.George
Chennai-600 009

2.The Director of Public Health & Preventive Medicine
Office of the Director of Public Health &
Preventive Medicine and Chief Registrar of Births and Deaths
DMS Compound
Teynampet, Chennai-600 018

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