

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.05.2015

CORAM

THE HONOURABLE MR.JUSTICE S.MANIKUMAR

Writ Petition No.14153 of 2015

M.P.No.1 of 2015

P.S.Devanath

... Petitioner

Vs.

1. The Additional Principal Secretary to Government,
Tourism, Culture & Religious Endowments Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,
Directorate of Art and Culture,
Thendral, Greenways Road,
Chennai 620 028.
3. Thiru.D.Mathiyazhagan

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying for a Writ of Certiorarified Mandamus, to call for the records, relating to the impugned order, passed by the first respondent herein, in his proceedings Letter No.9562/Pin.1/2013-11, dated 28.04.2015, quash the same and consequently, direct the respondents to regularise the service of the petitioner as Head of the Department in the Department of Art & Culture, as ordered in G.O.Ms.No.192 (Tourism & Culture (C1-1) Department), dated 28.09.2002.

For Petitioner : M/s.G.Bala and Daisy

For Respondents : Mr.P.Sanjay Gandhi,
Addl. Govt. Pleader

O R D E R

Material on record discloses that when the seniority of the petitioner was revised by the Government in G.O.Ms.Nos.189 and 190, Tourism, Culture and Religious Endowments (Pan 1-1) Department, dated 17.07.2013 and consequently, his promotion, as Head of the Department, Finance Department, was re-called, W.P.No.19926 of 2015, has been filed. The 3rd respondent has claimed seniority over the petitioner. While issuing the abovesaid Government Orders, no opportunity was given to the petitioner. On that score, vide order, dated 06.02.2015, both the Government Orders, dated 17.07.2013, is set aside and that the matter has been remitted to the Principal Secretary, Tourism, Culture and Religious Endowments Department, 1st respondent therein, for fresh consideration. The said authority has been directed to issue notice to the petitioner and the 3rd respondent herein, and to pass appropriate orders, on merits and as per law. While remitting the matter, this Court further directed that the interim protection granted on 14.03.2014, would continue to be in force, till the disposal of the matter by the first respondent therein. Pursuant to the said directions, the Government have issued a notice in Letter No.9562/Pin.1/2013-11, dated 28.04.2015, to the petitioner, calling upon him, to submit his reply, as to why, re-casting of the seniority should not be made. The said letter is challenged in this writ petition.

2. At Paragraphs 2 and 3 of the impugned letter, the Government have explained the seniority position of the petitioner and the 3rd respondent and on that basis, asked the petitioner to submit his reply, within 15 days, as to why, re-casting should not be made.

3. Though the petitioner has contended that the Principal Secretary, Tourism, Culture and Religious Endowments Department, Chennai, has pre-determined the issue, while calling upon the petitioner to submit his reply and that it would be amounting to empty formality, this Court is not inclined to accept the same. The impugned letter only sets out the reasons, as to why, re-casting is required. Reply is sought for, from the petitioner and that the same cannot be said to be pre-determined. Having obtained an order of interim protection, till the issue is decided by the first respondent, it is not open to the petitioner to contend that the impugned notice is issued, without adhering to the principles of natural justice.

4. In view of the above, the Writ Petition is dismissed. No costs. Consequently, connected Miscellaneous Petition is also closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

skm
To

1. The Additional Principal Secretary to Government,
Tourism, Culture & Religious Endowments Department,
Fort St. George, Chennai 600 009.
2. The Commissioner,
Directorate of Art and Culture,
Thendral, Greenways Road,
Chennai 620 028.

+1cc to M/s.G.Bala & Diasy, Advocate, S.R.No.24937
+1cc to the Government Pleader, S.R.No.24991

W.P.No.14153 of 2015

CNR(CO)
CA(08/05/2015)



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