

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2015

CORAM

THE HONOURABLE Mr. JUSTICE T.S. SIVAGNANAM

W.P.No.33028 of 2014 &

M.P.No.1 of 2014

L.Murugesan

.. Petitioner

Vs

1. The Chairman Interview Board
(Joint Secretary & Legal Advisor)
Department of Legal Affairs (Notary Cell),
Ministry of Law and Justice,
Government of India,
Shastri Bhavan, New Delhi-110 001.
2. The Assistant Legal Advisor (Notaries),
Department of Legal Affairs,
Ministry of Law & Justice,
Government of India, 4th Floor, "A" Wing,
Shastri Bhavan, New Delhi-110 001.
3. The Secretary,
Ministry of Law & Justice,
Government of India,
Shastri Bhavan, New Delhi-110 001.

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India for a writ of Mandamus directing the respondents 1 to 3 to select the petitioner for the post of Notary, further issue the appointment order in favour of the petitioner in accordance with law.

For Petitioner : Mr.D.Sivasankaran

For Respondents : Mr.Su.Srinivasan

Assistant Solicitor General of India

O R D E R

Heard Mr.D.Sivasankaran, learned counsel for the petitioner and Mr.Su.Srinivasan, Assistant Solicitor General of India for respondents.

2.The petitioner is a practising Advocate having enrolled in Bar Council of Tamil Nadu on 03.12.2003 with registration No.MS.2014/2003. The petitioner is a physically challenged person has deformity in both legs and he is in possession of disability certificate showing that he is a disabled person. The

petitioner has applied for being considered as a notary public by the Central Government. The petitioner has filed an application along with all annexures including proof to show that he is a physically challenged person. The petitioner would state that he being a disabled person, he is entitled to be considered by applying the rule of reservation formulated by the Government, while considering the candidates for employment to civil post by applying the provisions of Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

3.It is contended by the learned Assistant Solicitor General of India for the respondents, the petitioner is not an employee of the Central Government, if he is nominated as notary public, the duties and responsibilities as notary public are in accordance with the Notaries Act and the petitioner is entitled to charge a fee from the clients as notified by the Central Government from time to time. Therefore, the reservation of 3% cannot be made applicable while considering candidates for being conferred with the status of notary public. The provisions of the said enactment cannot have an automatic application in the absence of the said provision having been adopted as a pre-requisite for selection of notary public and it is not one of the categories of posts which has been identified for reservation for physically challenged persons. Therefore, unless and until, the procedure for recruitment is notified by the Government providing for reservation, the petitioner cannot state that the same analogy as applicable for public employment should be extended to the persons applying for being considered to be nominated as notary public.

4.However, it is seen that the petitioner has not been communicated the reasons for rejection of his application which the petitioner is entitled to. It is stated that it is not mandatory and it is sufficient to notify the list of selected candidates and the names the candidates who are not in the list are deemed to be not selected.

5.In my opinion, the respondents should disclose the reasons for non-selection as to how the comparative merits and eligibility have been considered and in this regard, the petitioner has submitted several representations and till date none of the representations have been considered.

6.In the light of above, there will be a direction to the second respondent to consider the petitioner's representation and disclose the reasons as to why the petitioner was not selected and comparative merits and methods of assessment which was done in the selection process and the same shall be communicated to the petitioner, within a period of four weeks from the date of receipt of a copy of this order. With the above direction, the Writ

Petition is disposed of. Consequently, connected miscellaneous petition is closed. No costs.

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

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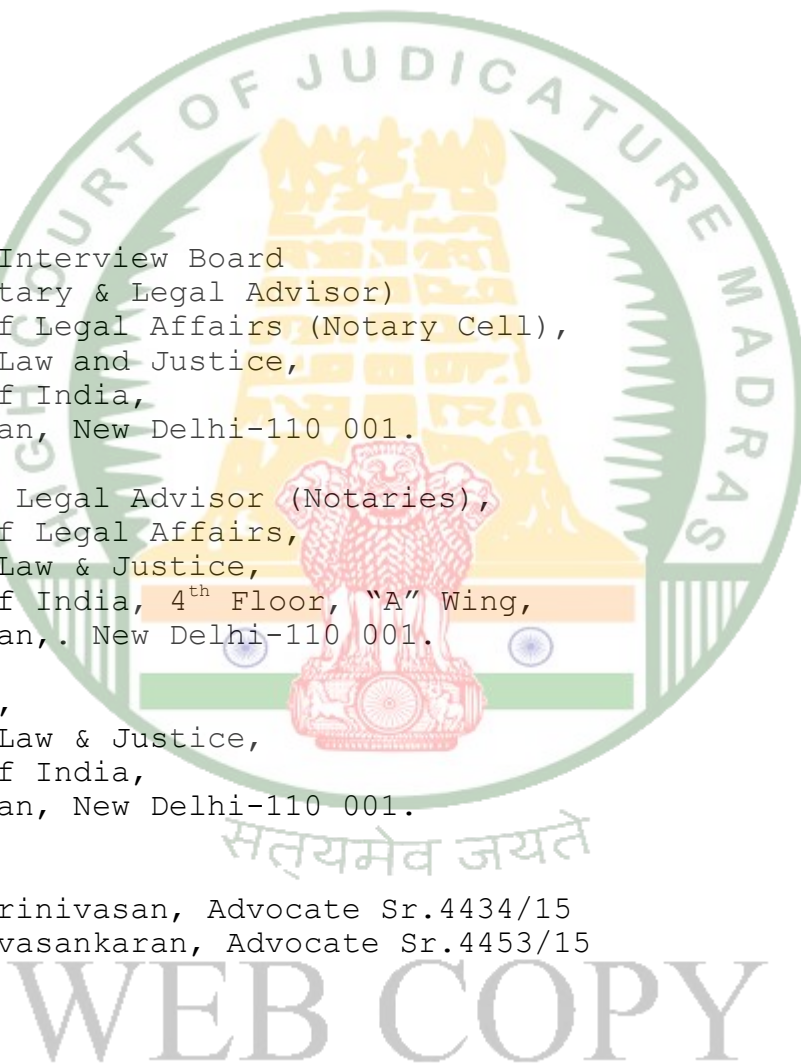
To

1. The Chairman Interview Board
(Joint Secretary & Legal Advisor)
Department of Legal Affairs (Notary Cell),
Ministry of Law and Justice,
Government of India,
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2. The Assistant Legal Advisor (Notaries),
Department of Legal Affairs,
Ministry of Law & Justice,
Government of India, 4th Floor, "A" Wing,
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3. The Secretary,
Ministry of Law & Justice,
Government of India,
Shastri Bhavan, New Delhi-110 001.

+1 CC to Mr.Su.Srinivasan, Advocate Sr.4434/15
+1 CC to Mr.D.Sivasankaran, Advocate Sr.4453/15

CO-AK

ths : 20.02.2015



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