

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2015

CORAM:

THE HONOURABLE MR. JUSTICE D.HARIPARANTHAMAN

Writ Petition No.2563 of 2014 and
M.P.No.1 of 2014

T.Dhilip Kumar

...Petitioner

-vs-

1.The Regional Director
Municipal Administration,
Salem, Salem District.

2.The Commissioner,
Attur Municipality, Attur,
Salem District.

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of Mandamus, forbearing the respondents in any manner filling up any vacancies or appointing any person in the existing vacancies of the 2nd respondent without following the rule of reservation provided in G.O.(Ms)No.10 dated 09.02.2009 and G.O.(Ms)No.142 dated 14.10.2009 and consequently direct the respondents to consider and pass orders on the representation of the petitioner dated 22.01.2014.

For Petitioner : Mr.E.Kannadasan

For Respondents : Mr.S.Gunasekaran

Government Advocate

सत्यमेव जयते
O R D E R

It is the case of the petitioner that he passed 10th standard and thereafter, he joined Diploma in Information Course. Subsequently, he discontinued his studies in the month of October 2004. Thereafter, he registered his name before the District Employment Office, Salem.

2. According to the petitioner, he met with a road accident in the year 2009 and his left leg below the knee was amputated. Doctor issued a disability certificate, certifying his disability at 70%. The Government issued G.O.(Ms)No.10 P & AR Department, dated 09.02.2009 and G.O.(Ms)No.142 P & AR Department, dated 14.10.2009 about the applicability of Rules of Reservation and 200 Roster point. Under the 200 Roster point, persons with disability are provided with 3% reservation under the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 (for short Disabilities Act). According to the

petitioner, the second respondent has sought to fill up the vacancies without following the reservation meant for persons with disability as provided under the Act.

3. The second respondent has filed a counter affidavit. It is stated in the counter affidavit that the second respondent received a list of eligible candidates from the District Employment Office, Salem and based on the same, vacancies were filled up. It is further averred that the father of the petitioner is a Councilor in 27th Ward and he is one of the members of the Appointment Committee.

4. Heard both sides.

5. The second respondent is an establishment. In this context, it is necessary to refer to Section 2(k) of the Disabilities Act, which reads as follows:-

"(k) establishment means a corporation established by or under a Central, Provincial or State Act, or an authority or a body owned or controlled or aided by the Government or a local authority or a Government company as defined in section 617 of the Companies Act, 1956 (1 of 1956) and includes Departments of a Government."

6. Section 33 of the Disabilities Act mandates that every appropriate Government shall appoint in their establishment not less than 3% of posts from the persons with disability. Section 33 reads as follows:-

"Reservation of Posts.- Every appropriate Government shall appoint in every establishment such percentage of vacancies not less than three per cent. for persons or class of persons with disability of which one per cent each shall be reserved for persons suffering from-

(i) blindness or low vision;
(ii) hearing impairment;
(iii) locomotor disability or cerebral palsy, in the posts identified for each disability;
Provided that the appropriate Government may, having regard to the type of work carried on in any department or establishment, by notification subject to such conditions, if any, as may be specified in such notification, exempt any establishment from the provisions of this section."

7. Hence, Section 2(k) r/w Section 33 of the Disabilities Act makes it clear that the second respondent shall provide 3% reservation to persons with disability. Just because the father of the petitioner is a Councilor and he is in the Appointment Committee, the same cannot be a reason for not following the mandate of law.

8. In view of the above, the writ petition is disposed of, directing respondents 1 and 2 to fill up vacancies in the second respondent Municipality by following Rules of Reservation, particularly, 3% reservation to persons with disability, as provided under the Disabilities Act. No costs. Connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

svki

To

- 1.The Regional Director
Municipal Administration,
Salem, Salem District.
 - 2.The Commissioner,
Attur Municipality,
Attur, Salem District.
 3. The Public Prosecutor, High Court, Madras.
- + 1 cc to Mr.E. Kannadasan, Advocate SR.19770
- + 1 cc Government Pleader Sr.19890

SSI (CO)
EU 13.05.2015

W.P.No.2563 of 2014

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