

oj8IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :25.2.2014

CORAM:

THE HONOURABLE MR. JUSTICE K.K.SASIDHARAN

Writ Petition No.25979 of 2014
and MP.No.1 of 2014

1. R.Thangam
2. R.Ramesh
3. P.Saravanan
4. C.Saravanan
5. Subramaniyan
6. Mayavan
7. G.Prabu
8. Papitha
9. Uma Mahewari
10. Nirmala
11. Kamaraj
12. D.Balasubramaniyam
13. K.Vijayan
14. Gurusamy
15. P.Pirabu
16. Kalyani
17. C.Moorthy
18. Kumar
19. Ganthimathi
20. P.Devi
21. Mallika
22. R.Valli
23. Jothi
24. G.Moorthy
25. P.Sekar
26. Veerakumar
27. V.Sakthivel
28. R.Praveen Kumar

.. Petitioners

Vs.

1. Government of Tamil Nadu
Rep.by its Secretary
Department of Municipal Administration
Fort St.George, Secretariat,
Chennai - 600 009
2. Erode Corporation
Rep.by its Commissioner
Municipal Corporation Building
Erode District,Erode
3. The Inspector of Labour
Labour Office,
Erode

4. District Employment Exchange
Collectorate Office,
Theeran Chinna Maliky,
Eorde

...Respondents

Petition filed under Article 226 of the Constitution of India for the issuance of writ of certiorarified mandamus directing the 2nd respondent Corporation of Consider and appoint the petitioners as sanitary worker within a stipulated time frame by according suitable relaxation by considering their past service.

For Petitioner : Mr.V.Govardhanan

For R1, R3and R4 : Mr.M.S.Ramesh
Addl. Govt. Pleader

For R2 : Mr.P.Srinivas

O R D E R

The petitioners seek a writ of mandamus directing the second respondent to appoint them as Sanitary workers taking into account the services rendered by them right from the year 2008.

2. The petitioners were all employed through Self-Help Group and they have been engaged as sanitary workers. The petitioners, on completion of 480 days of continuous service, submitted applications before the third respondent invoking the provisions of the Tamil Nadu Establishment (Conferment of Permanent Status) Act 1985. The third respondent issued notice to the second respondent. The second respondent entered appearance and filed a counter statement. The third respondent is now seized of the matter. While so, the second respondent initiated action to fill up the posts in question. This made the petitioner to approach this Court by way of this writ petition.

3. The Commissioner, Erode Municipal Corporation in his counter affidavit contended that the State Government has directed that $\frac{1}{4}$ of the work of sanitation in regard to collection of garbage should be entrusted to the private agencies in order to improve the sanitation status. According to the Municipal Corporation, tenders from interest Self Help Groups have been called for to undertake the work of garbage collection and sweeping of streets.

4. The second respondent admitted that the petitioners have filed application before the third respondent. However, the Municipal Corporation disputed the claim made by the petitioners that they were employed by the Corporation directly.

5. Heard the learned counsel for the petitioner and the learned Additional Government Pleader on behalf of the respondents 1 , 3 and 4 and the learned standing counsel for Erode Corporation.

6. There is no dispute that the petitioners have approached the third respondent with an application under the provisions of the Tamil Nadu Establishment (Conferment of Permanent Status) Act, and with a plea to direct the second respondent to absorb them in service. It is also a matter of record that the second respondent, on appearance before the third respondent filed a counter affidavit and disputed the claim made by the petitioner. The third respondent is now seized of the matter. It was only during the currency of the matter before the third respondent, the second respondent appears to have taken action to give work in question to others either by way of appointment or by out sourcing.

7. When there is an application involving the corporation is pending before the statutory authority, the Corporation should have waited before taking action to fill up posts in question or to resort to the process of out sourcing.

8. The third respondent is directed to conclude the proceedings initiated by the petitioners under the provision of Tamil Nadu Establishment (Conferment of Permanent Status) Act and pass appropriate orders on merits and as per law as expeditiously as possible and in any case, within a period of three months from the date of receipt of a copy of this order.

9. The status-quo as on today shall be maintained till the disposal of the matter by the third respondent.

10. The learned counsel for the second respondent submitted that there are other posts to be filled up by the Corporation and this order should not stand in the way of taking action by the Municipal Corporation.

11. This writ petition relates to the appointment of 28 sanitary workers. It is open to the Corporation to proceed with the recruitment process with respect to other posts, if they are legally entitled to do so.

12. The writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petition is closed.

Ga

Sd/-

Asst.Registrar

/true copy/

Sub Asst. Registrar

To

1. The Secretary

<https://hcservices.ecourts.gov.in/hcservices/>

Department of Municipal Administration

Fort St.George, Secretariat,

Chennai - 600 009

2. The Commissioner, Erode Corporation
Municipal Corporation Building
Erode District, Erode

3. The Inspector of Labour
Labour Office,
Erode

4. District Employment Exchange
Collectorate Office,
Theeran Chinna Maliky,
Erode

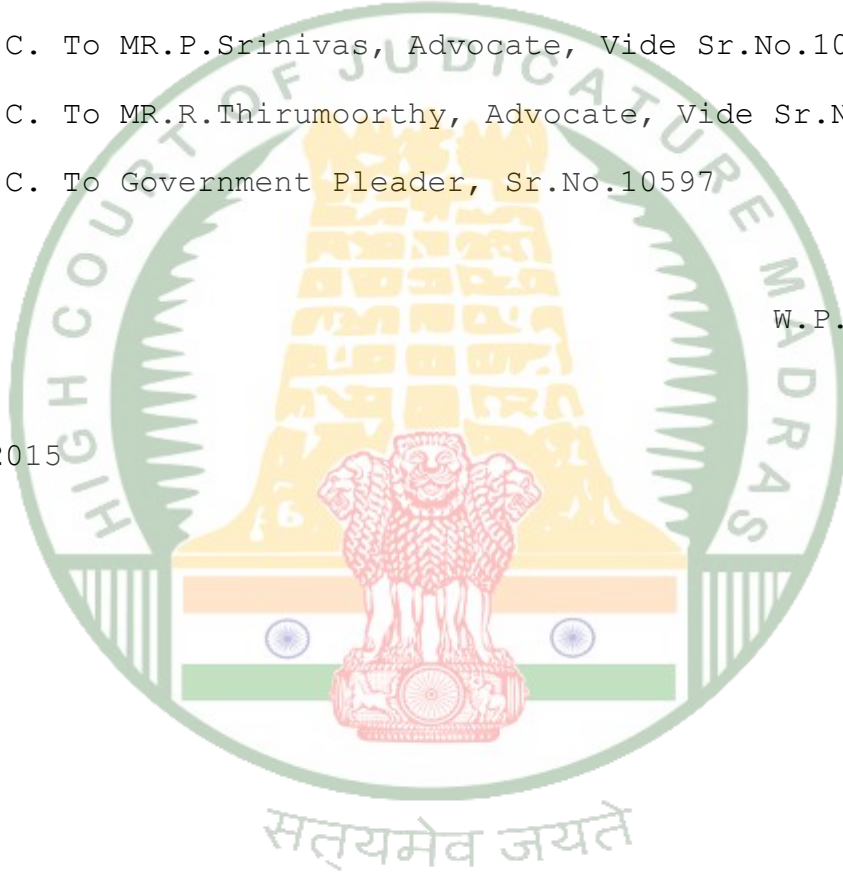
+1 C.C. To MR.P.Srinivas, Advocate, Vide Sr.No.10532

+1 C.C. To MR.R.Thirumoorthy, Advocate, Vide Sr.No.10648

+1 C.C. To Government Pleader, Sr.No.10597

W.P.No.25979 of 2015

UG(CO)
sd 20/03/2015



WEB COPY