

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

W.P.No.39207 of 2015
and M.P.Nos.1 and 2 of 2015
and W.M.P.No.21141 of 2016

1. E.Senthamizhselvi
2. Gunavathy
3. Lakshmi
4. D.Vengadeswari
5. Divya
6. P.Latha

.... Petitioners

Vs.

1. The Director,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
No.359, Anna Salai,
Chennai-600 006.
2. The District Collector,
Villupuram District, Tamil Nadu.
3. The Health Secretary,
Government of Tamil Nadu,
St.Fort George, Chief Secretariat, Chennai.
4. The Principal,
Pondicherry University,
Community College, Lawspet,
Puducherry.
5. The District Employment Officer,
Villupuram District,
Tamil Nadu.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the records of the second respondent in respect of the impugned Notification with No.Nil, dated Nil and to quash the same in respect of the list of the Institutions which granted qualifications as provided in the Notification so long as it

discriminated the petitioners and consequently to direct the respondents 1 and 2 to consider and appoint the petitioners to the post of Village Health Nurses.

For Petitioners : Mr.V.Ajayakumar

For Respondents : Mr.A.Vivek,
Standing Counsel for R-1
Mr.K.Dhananajayan,
Special Government Pleader
for RR-2, 3 and 5
Mrs.A.V.Bharathi for R-4

ORDER

Though miscellaneous petitions are listed for disposal, by consent of the learned counsel appearing for the parties, the Writ Petition itself is taken up for disposal.

2. The petitioners have filed this Writ Petition praying for issuance of a Writ of Certiorari Mandamus to call for the records of the second respondent in respect of the impugned Notification with No.Nil, dated Nil and to quash the same in respect of the list of the Institutions which granted qualifications as provided in the Notification so long as it discriminated the petitioners and consequently to direct the respondents 1 and 2 to consider and appoint the petitioners to the post of Village Health Nurses.

3. The petitioners have completed Diploma in Multipurpose Health Worker conducted by the Pondicherry University Community College, which is directly run by the Pondicherry Central University. The course was previously known as Diploma in Auxiliary Nursing and Midwifery and the said nomenclature of the course was changed into Multipurpose Health Worker with a view to facilitate all India acceptance to the course. The petitioners 1 to 5 have completed the course of Multipurpose Health Worker/Auxiliary Nursing and Midwifery Diploma in 2009 and the sixth petitioner has completed the course in 2010. They have got their names registered with the Tamil Nadu Employment Exchange and they are entitled to be considered for appointment to the post of Nurses/Multipurpose Health Worker. The Diploma Certificate which is issued by the Pondicherry University, had been duly registered with the Tamil Nadu Nurses and Midwifery Council, which itself shows that the examination is accepted and recognised throughout India.

4. It is further stated that the Tamil Nadu Health Department took a decision to fill up 543 vacancies of Village

Health Nurses (Grama Sugathara Seviliyar) and had been notified that the selection will be made on the basis of the Employment Exchange Registration Seniority. The candidates who have completed 18 months course of Multipurpose Health Worker from the listed out Government Institute and Private Institutes, the names of which are issued in the impugned Notification alone, are directed to appear before the Employment Officer, Villupuram for appointment. Candidates who got their qualification from other institutions, even if recognised, are denied job, which is arbitrary and discriminatory. It is stated that those candidates who have not taken the qualification from the Institutes and Universities other than which are listed out in the said Notification, are not entitled to get employment as per the Notification. The authorities have not considered the qualification of the petitioners, even though it has been issued by the Pondicherry Central University which is a National University. Similarly, the Employment Officer had not considered the fact that the Tamil Nadu Nurses and Midwives Council had registered the qualification, since it is issued by the Pondicherry University Community College, which is affiliated to the Pondicherry Central University.

5. When the above grievance was brought to the notice of the Pondicherry University Community College, the Pondicherry University Community College wrote a letter to the Health Secretary, Chief Secretariat, Government of Tamil Nadu on 21.06.2012, stating that the Pondicherry University is a Central University established under the Act of Parliament 53 of 1985 and the Pondicherry University Community College is a constituent College of Pondicherry University. The said course of Diploma in Multipurpose Health Worker (Female) had been started with the approval of the Directorate of Health and Family Welfare Services and the Tamil Nadu Nurses and Midwives Council had also recognised the said Diploma and the College, since it is a Central University. The said course is a two-year Diploma course and the petitioners 1 to 5 have taken the course from the Academic Year 2007-2009 and had been awarded with the Certificates in 2009 and the sixth petitioner in 2010. In spite of all this, the respondents 1 and 2 have not considered the qualification of the petitioners for appointment. Some of the similarly placed other candidates have already approached the authorities with representations and also issued Lawyer's notice, whereas the respondents 1 and 2 have not taken any positive action so far, nor the petitioners had been allowed to participate in the selection process.

6. It is the further case of the petitioners that in an earlier occasion, the respondents 1 and 2 have appointed more than 400 Health Inspectors, who have studied in the same Community College and the petitioners are also entitled to get

the same benefit. On the previous occasion, the respondents have not considered the candidates who have taken their degree from the Pondicherry Central University and so, they have filed a Writ Petition in W.P.No.21278 of 2012, challenging the order which restricted the qualification pertaining to some institutions alone, so as to exclude the Pondicherry University. This Court granted stay and directed the respondents not to publish the results of the interviews held already and if the result is already published, the appointment order should not be issued. In spite of the said order, the first respondent is following the same illegal process, ignoring the order of this Court, stating that the first respondent was not a party in the earlier Writ Petition and the present Notification is different from the earlier Notification. Hence, the petitioners have filed this Writ Petition for the relief stated supra.

7. Heard both sides and perused the materials available on record.

8. In the additional counter affidavit filed by the first respondent, in paragraph 3, it is stated as follows:

"3. It is respectfully submitted that till now no notification has been issued for VHN during the year. Now in the G.O.(Ms).No.204, Health and Family Welfare (L2) Department, dated 12.08.2016, the Government have granted permission to Medical Services Recruitment Board for filling up of the vacancies of Village Health Nurse/Auxiliary Nurse Midwife in the Public Health Department. The order states that,

"The Government accord permission to the Director of Public Health and Preventive Medicine to fill up the posts of Village Health Nurse/Auxiliary Nurse Midwife in Tamil Nadu Public Health Subordinate Service, through the Tamil Nadu Medical Services Recruitment Board, as follows:-

(1) to recruit the candidates those who have studied in the private Auxiliary Nurse Midwife Schools which are recognised by the Government, Indian Nursing Council and registered in Tamil Nadu Nurses and Midwives Council as a one time measure;

(2) to treat the candidates who are natives of other States and completed Auxiliary Nurse Midwife training, as Other Category Candidates (OCC) while recruiting to the post of Village Health Nurse/Auxiliary Nurse Midwife under Communal Rotation;

(3) to consider the candidates mentioned at (1) and (2) above, as eligible for applying to

the post of Village Health Nurse / Auxiliary Nurse Midwife with the following qualification in consonance with the orders issued in G.O.(D). No.1199, Health and Family Welfare (N1) Department, dated 15.11.2012:

(i) ANM qualification from Government or Government approved private Auxiliary Nurse Midwife school which is recognised by Indian Nursing Council, namely:

(a) For those who have acquired Auxiliary Nurse Midwife/Multipurpose Health Workers (Female) qualification prior to 15.11.2012 - SSLC with 18 months Auxiliary Nurse Midwife/Multipurpose Health Workers (Female) Course.

(b) For those who have acquired Auxiliary Nurse Midwife/Multipurpose Health Workers (Female) qualification after 15.11.2012 - +2 with 2 years Auxiliary Nurse Midwife/Multipurpose Health Workers (Female) Course.

(ii) Having a Certificate of Registration issued by the Tamil Nadu Nurses and Midwives Council; and

(iii) Must possess physical fitness for camp life."

9. Hence, while recording the above said paragraph 3 of the additional counter affidavit filed by the first respondent, there is no need to pass any further orders in this Writ Petition. Accordingly, the Writ Petition is closed. No costs. Consequently, the miscellaneous petitions are also closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

cs

To

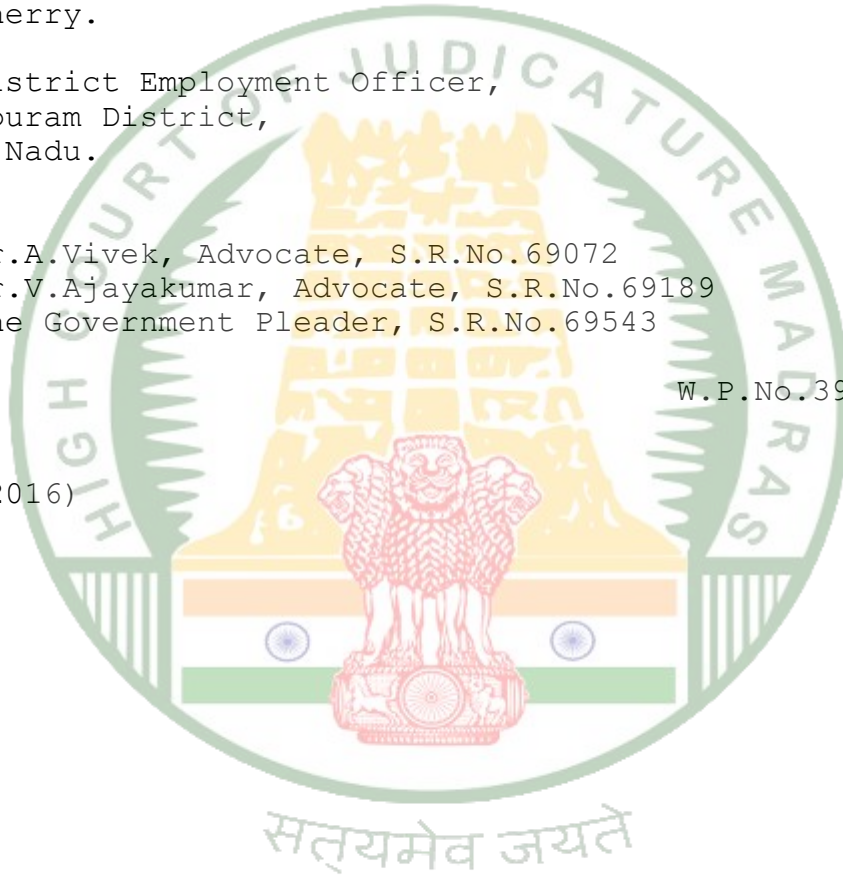
1. The Director,
Medical Services Recruitment Board (MRB),
7th Floor, DMS Building,
No.359, Anna Salai,
Chennai-600 006.

2. The District Collector,
Villupuram District, Tamil Nadu.
3. The Health Secretary,
Government of Tamil Nadu,
St.Fort George, Chief Secretariat,
Chennai.
4. The Principal,
Pondicherry University,
Community College, Lawspet,
Puducherry.
5. The District Employment Officer,
Villupuram District,
Tamil Nadu.

+1cc to Mr.A.Vivek, Advocate, S.R.No.69072
+1cc to Mr.V.Ajayakumar, Advocate, S.R.No.69189
+1cc to the Government Pleader, S.R.No.69543

W.P.No.39207 of 2015

SAI (CO)
CA(23/12/2016)



WEB COPY