

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2017

CORAM

THE HON'BLE MS. INDIRA BANERJEE, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE M.SUNDAR

W.P.No.18997 of 2017

C.Selvarathinam

..Petitioner

Vs.

1. The Union of India
rep. by its Secretary to Government
Ministry of Home Affairs
Government of India
North Block, New Delhi - 110 001.
2. The Chairman (Repco Bank) cum
Principal Secretary
Public and Rehabilitation Department
Government of Tamil Nadu
Secretariat, Chennai - 600 009.

... Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of mandamus directing the respondents to appoint the Managing Director post in Repco Bank within a stipulate time.

For Petitioner : Mr.D.Bharathy

For Respondents : Mr.Jaya Ganesh
for 1st respondent

Mr.A.Ilangovan
for 2nd respondent

ORDER

(Order of the Court was made by the Hon'ble Chief Justice)

This writ petition, purportedly in public interest, has been filed for a writ or direction in the nature of mandamus directing the respondents to appoint Managing Director in Repco Bank within the time stipulated by this Court.

2. The petitioner claims to be a social worker espousing the causes of persons allegedly affected by non implementation and/or improper implementation of a scheme for the benefit of repatriates. However, there is not a whisper as to how exactly the implementation of the scheme is being affected by reason of the delay in appointment of the Managing Director of Repco Bank.

3. Admittedly, there is an officiating Managing Director. Totally vague allegations have been made against the Managing Director (In-charge) to the effect that she is "administrating for her own and fancy manner and giving privileges to the support us and deny the clients for the poor members of repatriates and in view of that there were more problems were created in the administration of the above said bank", without giving any particulars of how she is mismanaging the bank. Specific reference may be made in this context to the averments made in paragraphs (6), (7) and (8) of the affidavit filed in support of this writ petition. There is not a whisper of what facilities or benefits have been denied by reason of the fact that there is an officiating Managing Director.

4. There is also an averment that the petitioner has made an application under the Right to Information Act, 2005 seeking information as to the steps taken to fill up the post, but has not received any reply. Admittedly, no appeal has been filed. In any case, refusal to give information cannot be subject matter of a public interest litigation.

5. It is true that an earlier writ petition, being W.P.No.2936 of 2017, had been filed by the same writ petitioner. This Court observed that the petitioner had filed the petition without either averring or producing any material to show his status in the second respondent, though learned counsel had claimed that the writ petitioner had been a delegate. This Court, however, recorded the submission of the learned Additional Solicitor General that the Board had proposed the appointment of a Director and the said proposal has been sent to the Central Government and the final decision of the Central Government was awaited. This Court merely disposed of the writ petition by recording the submission made by the learned Additional Solicitor General.

6. The learned counsel appearing on behalf of the second respondent has raised an objection to the maintainability of this writ petition as a public interest litigation. The objection to the maintainability of the writ petition as a public interest litigation is, in our considered view, sustainable. It is reiterated that there is not a whisper in the writ petition and/or the supporting affidavit as to how the public at large have been affected.

7. In a public interest litigation, a public spirited citizen may espouse the cause of the public at large to set right some inherent wrong to people in general or to a section of people. Where any rights, be it fundamental rights, other constitutional rights, legal rights, human rights, etc., are violated, a public spirited citizen may come forward and file a public interest litigation to remedy the wrong. Such a public interest litigation is ordinarily to be entertained. The Court has a duty to ensure that citizens are not deprived of their constitutional, legal or human rights. Similarly, public spirited citizens may espouse the cause of underprivileged and/or marginalized sections of society who may not be in a position to approach the Court to fight for their rights. However, so-called public interest litigations for filling up posts in banks and/or companies and/or other organizations ought not to be entertained by this Court in the absence of any materials to show that the public at large or a group of persons are being affected by the inaction in filling up such posts.

8. The averments in the affidavit in support of the petition do not indicate how the functioning of the bank is being affected in the absence of a regular Managing Director. It is only alleged that the officiating Managing Director is "administrating for her own and fancy manner and giving privileges to the support us and deny the clients for the poor members of repatriates and in view of that there were more problems were created in the administration of the above said bank". It appears to us that the writ petition is motivated. The petitioner has possibly been set up by interested persons. There are only personal allegations against a lady - Issabella, who is the Managing Director (Incharge). It is reiterated that there is no whisper in the writ petition that the Managing Director (Incharge) does not have the power and/or competence to discharge any function which only a full time Managing Director can discharge.

9. Under the scheme of separation of powers, it is not for the judiciary to supervise over appointments in the absence of specific case of illegality.

The writ petition is liable to be and is dismissed. In future costs would have to be imposed in case of such frivolous litigations. However, we refrain from imposing any costs in this case.

Sd/-
Assistant Registrar(CS V)

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Sub Assistant Registrar

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To:

1. The Secretary to Government
Union of India
Ministry of Home Affairs
Government of India
North Block, New Delhi - 110 001.
2. The Chairman (Repco Bank) cum
Principal Secretary
Public and Rehabilitation Department
Government of Tamil Nadu
Secretariat, Chennai - 600 009.

+1cc to Government Pleader SR.No.54315
+1cc to Mr.K.S.Jayaganeshan, Advocate SR.No.53702
+1cc to Mr.D.Bharathy, Advocate SR.No.53705
+1cc to Mr.A.Ilangovan, Advocate SR.No.53830

GN(17/08/2017)

W.P.No.18997 of 2017



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