



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **09.08.2017**

CORAM:

THE HONOURABLE MR.JUSTICE **K.K.SASIDHARAN**
AND
THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

W.P. [MD].No.20251 of 2015
and
M.P. (MD)Nos.1 to 3 of 2015

S.Muthukumar : Petitioner

Vs.

1. The Secretary to Government of Tamil Nadu,
(Municipal Administration and
Water Supply Department),
Secretariat,
Chennai-600 009.
2. The Commissioner,
Municipal Administration,
Chepauk,
Chennai-600 005.
3. The District Collector,
Madurai District,
Madurai-20.
4. The Commissioner,
Madurai Corporation,
Madurai-20.
5. Tmt.R.Sivapackiam
Law Officer, Madurai Corporation,
Madurai-20.
6. The Director General of Police,
Dr.Radhakrishnan Salai,
Mylapore, Chennai-600 004.
7. The Principal,
Al-Ameen Law College,
House Road, Sudhama Nagar,
Bangalore,
Karnataka - 560 027.



8. The Registrar,
Karnataka State Law University,
Sutagatti Road, Hubli,
Navanagar, Near RTO Office,
Karnataka - 580 025.

[R-6 to R-8 are impleaded vide Court order
dated 03.12.2015 in M.P.(MD)No.4 of 2015]

9. The Bar Council of India

[R-9 is *suo motu* impleaded vide Court
order dated 03.12.2015 in M.P.(MD)No.4 of 2015]

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Quo Warranto, directing the fifth respondent to show to this Court under what authority the fifth respondent holds the post of Law Officer in the fourth respondent Corporation and consequently, direct the sixth respondent to form a Special Investigation Team to probe into the illegal appointment of the fifth respondent and to scrutinize all the files dealt by the fifth respondent herein from 12.01.2015 to till date and direct the ninth respondent to take appropriate action against the seventh respondent College for issuing an illegal LLB Degree to the fifth respondent when she was working as a full time permanent employee of the fourth respondent without attending the college as regular student.

[Prayer amended vide Court order dated 29.01.2016 in M.P.(MD)No.5 of 2015]

For Petitioner : Mr.A.Kannan
For Respondents 1to3 : Mr.M.Govindan,
Additional Government Pleader
For Respondent No.4 : Mr.R.Murali
For Respondent No.5 : Mrs.M.Maria Vinola

O R D E R

[Order of the Court was made by **K.K.SASIDHARAN, J.**]

The petitioner filed this Writ Petition in *pro bono publico* for issuance of a Writ and more particularly, in the nature of a Writ of Quo Warranto, directing the fifth respondent to show under what authority, she holds the post of Law Officer in Madurai Corporation and direct the Director General of Police, to form a special investigation team to probe into her illegal appointment and to take action against Al-Ameen Law College, Bangalore, for issuing LLB Degree to the appointee without undergoing regular

FACTS IN NUTSHELL:

2. The petitioner is stated to be a legal practitioner. It is the case of the petitioner that the Commissioner, Corporation of Madurai, appointed the fifth respondent as a Law Officer of the Local Body. She took her L.L.B. Degree without undergoing regular course. She studied the course while functioning as the Superintendent in Madurai Corporation. She was, therefore, not entitled either to practise Law or claim appointment as Law Officer. The petitioner initially filed the Writ Petition challenging the appointment of the fifth respondent. Subsequently, the prayer in the Writ Petition was amended by seeking a Writ of Quo Warranto.

3. The Commissioner, Madurai Corporation filed a counter-affidavit, wherein it was indicated that the fifth respondent was appointed against the quota earmarked for widows. She was a qualified and competent Typist. She joined Al-Ameen Law College at Bangalore for undergoing L.L.B. Degree Course. Since she joined the Course and completed L.L.B., while working as Superintendent, the matter was placed before the Council. The Council ratified her action in undergoing Law Course even while functioning as an employee of the Corporation.

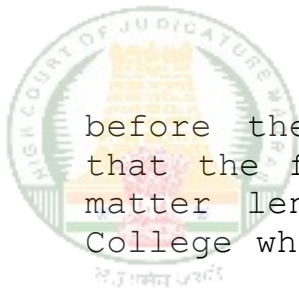
4. The fifth respondent, in her counter-affidavit, submitted that she is a widow and she got employment under widow quota. According to the fifth respondent, she joined L.L.B. Course conducted by the seventh respondent. Since she was working at that point of time, the fifth respondent attended special classes by taking casual leave and earned leave. She made it clear that she had no intention to practise as a lawyer. According to the fifth respondent, she satisfied the eligibility condition as per the Service Rules and as such, she was validly appointed.

SUBMISSIONS:

5. The learned counsel for the petitioner contended that being a service candidate, it was not possible for the fifth respondent to undergo regular degree course in law. According to the learned counsel, the fifth respondent without attending regular classes, obtained L.L.B. and thereafter, got appointment as Law Officer. Since she was not qualified to practise as a lawyer, the Corporation was not correct in appointing her as its Law Officer.

6. The learned Standing Counsel for the Madurai Corporation justified the appointment of the fifth respondent. According to the learned Standing Counsel, the fifth respondent fully qualified for appointment to the post of Law Officer and as such, she was selected by the Selection Committee.

<https://hcservices.ecourts.gov.in/hcservices/>
7. The learned counsel for the fifth respondent, while justifying the appointment, contended that she fully qualified the eligibility criteria. The case of the fifth respondent was placed



before the Council for ratification. The Council, having found that the fifth respondent was a very competent officer, took the matter leniently and ratified her action in studying in a Law College while functioning as an employee of the Corporation.

THE ISSUE:

8. The only question that arises for consideration is as to whether the fifth respondent qualified for appointment to the post of Law officer in Madurai Corporation.

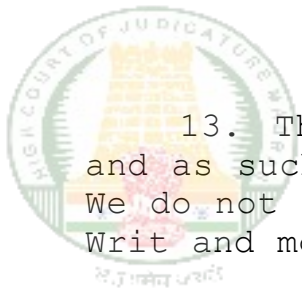
DISCUSSION:

9. The fifth respondent was initially appointed as an employee of Madurai Corporation in the year 1992. The fifth respondent appears to have joined L.L.B. Course at Al-Ameen Law College, Bangalore without taking permission from the Madurai Corporation. The fifth respondent, after obtaining the degree in law, informed the Corporation. The Corporation ratified her action and the Law Degree was recognized.

10. The Madurai Corporation called for applications from the eligible in-service candidates for recruitment to the post of Law Officer.

11. The Service Rules provide for giving promotion to the Superintendent of the Corporation General Subordinate Services as Law Officer. The other mode is by transfer from the holders of the post of Secretary to Council or by deputation from the holder of the posts of Law Officer in other Municipal Corporation or Selection Grade Assistant Section Officer in Secretariat. The qualification for appointment to the post of Law Officer by promotion indicates that the candidate must have a degree in Law or equivalent degree.

12. The appointment of the fifth respondent is under challenge primarily on the ground that the candidate ought to have taken the Law Degree by undergoing regular course. The petitioner would be correct in his contention, in case there is a stipulation in the Service Rules that for promotion, the candidate must have a degree in Law, enabling her to practise the profession of Law. However, that is not the rule framed for appointment to the post of Law Officer in Madurai Corporation. The qualification very clearly indicates that the candidate must have a degree in Law or equivalent degree, meaning thereby, even a degree holder possessing equivalent degree would be eligible for appointment to the post of Law Officer. There is no mention anywhere that the candidate must have studied the Law Degree by undergoing a regular course and that he should be entitled to practise the profession of Law. In the absence of any such stipulation, the petitioner cannot be heard to say that the fifth respondent was not eligible for appointment to the post of Law Officer. No other contentions were taken before us.



13. The fifth respondent satisfied the eligibility criteria and as such, she was rightly appointed by the Madurai Corporation. We do not find any ground made out by the petitioner for issuing a Writ and more particularly, a Writ of Quo Warranto.

14. In the upshot, we dismiss the Writ Petition. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True copy/

Sub Assistant Registrar

To

1. The Secretary to Government of Tamil Nadu,
(Municipal Administration and
Water Supply Department),
Secretariat,
Chennai-600 009.

2. The Commissioner,
Municipal Administration,
Chepauk, Chennai-600 005.

3. The District Collector,
Madurai District, Madurai-20.

4. The Commissioner,
Madurai Corporation,
Madurai-20.

5. The Director General of Police,
Dr. Radhakrishnan Salai,
Mylapore, Chennai-600 004.

6. The Chairman,
The Bar Counsel of India, New Delhi.

+1 cc to The Special Government Pleader, in SR.No. 72311

+1 cc to Mr. R. Murali, Advocate in SR.No. 71935

+1 cc to Mr. A. Kannan, Advocate in SR.No. 71746

+1 cc to Mr. M. Subash Babu, Advocate in SR.No. 72203

SML

AE/SV MMS/SAR1/11.09.2017/5P/11C