



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

W.P. (MD) No.23504 of 2016

and

W.M.P. (MD) Nos.16869 & 16870 of 2016 and 10792 of 2017

T.Sundaraj Perumal

... Petitioner

vs.

1. The District Collector,
Trichy District,
Trichy.

2. The Tahsildar,
Marungapuri Taluk,
Marungapuri,
Trichy District.

3. The Tahsildar,
Manaparai Taluk,
Trichy District.

4.Ayyappan

5.Thangaraj

6.Muthamilselvan

7.P.Ramachandran

8.Annadurai

9.M.Subbuvalli

10.Meenakshi

11.K.Shanthi

12.Saritha

13.Anusuya Devi

... Respondents

[R4 to R13 are impleaded vide order
dated 21.08.2017, in W.M.P. (MD) No.1130/207]

Petition filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned paper publication, dated 26.07.2016, issued by the second respondent in Dinathanthi Tamil Daily Newspaper calling for applications to the post of Village Assistant in the second respondent Taluk Villages and quash the same and consequently, direct the second respondent to issue proper publication by mentioning the appropriate reservation to



the post of Village Assistant to the respective Villages in the second respondent Taluk and conduct interview to select eligible candidate based on the category of reservation mentioned for the post of Village Assistant in the respective Villages in the second respondent Taluk.

WEB COPY

For Petitioner : Mr.V.Panneer Selvam
for Mr.AN.Ramanathan

For R1 to R3 : Mr.R.Karthikeyan
Additional Government Pleader

For R4 to R9 & 12 : Mr.G.Thalaimutharasu

For R10,11 & 13 : Mr.R.Subramanian

ORDER

T.Sundaraj Perumal, who is hailing from Pethankonpatti, Palakuruchi Village, Manaparai Taluk, Trichy District, has filed the present writ petition challenging the impugned paper publication, dated 26.07.2016, issued by the second respondent in 'Dinathanthi' Tamil Daily Newspaper, calling for applications to the post of Village Assistant in the second respondent Taluk Villages to quash the same and consequently, direct the second respondent to issue proper publication by mentioning the appropriate reservation to the post of Village Assistant to the respective Villages in the second respondent Taluk and conduct interview to select eligible candidates based on the category of reservation mentioned for the post of Village Assistant in the respective Villages in the second respondent Taluk.

2.The learned counsel for the petitioner submitted that the Tahsildar of Marungapuri Taluk, Marungapuri, Trichy District, second respondent herein, made a publication in the Tamil Daily Newspaper viz., Dinathanthi, on 26.07.2016, calling for eligible candidates to fill up the post of Village Assistant without specifically mentioning the name of the Village and also the reservation particulars. Moreover, the second respondent in the impugned notification, has simply mentioned that out of 15 vacant posts, four posts will be reserved for compassionate appointment and remaining 11 posts will be filled up based on rotation basis, four posts for General Category, one post for Scheduled Tribes, one post for Scheduled Castes, two posts for Most Backward and Minority Community and three posts for Backward Classes (Except Most Backward Muslims). In addition thereto, the second respondent has also obtained a list from Employment Exchange and invited eligible candidates residing in the same Village to submit their application on or before 02.08.2016. Since the petitioner belongs to Hindu Kammalar Community, which comes under Backward Class Category and the said Pethankonpatti is a part of Ayan



Poruvai, he has rightly submitted his application along with all documents to the second respondent for the post of Village Assistant. The third respondent also sent an intimation letter to the petitioner stating that he should appear before him on 15.09.2016 at 10.00 a.m. for verification of the original documents. Accordingly, the petitioner appeared before the third respondent on 15.09.2016 and submitted all the original documents for verification and thereafter, the petitioner was hopefully expecting further communication with regard to his selection for the post of Village Assistant in Ayan Poruvai Village. But, he did not get any response. On enquiry, in the second and third respondents' offices, he came to know that they are taking steps to appoint candidates according to their whims and fancies. Moreover, the second respondent is also attempting to convert the unfilled posts as reserved posts. If the same is allowed, the petitioner would be deprived of his opportunity to get job. With these background facts, the petitioner is compelled to move this Court by way of filing the present Writ Petition.

3.The learned counsel for the petitioner further submitted that the impugned paper publication specifies that out of 15 posts of Village Assistant, 11 posts will be filled up based on rotation basis and four posts will be reserved for compassionate appointment. However, one of the conditions mentioned in the Advertisement shows that the candidate should be a permanent resident of the Village, to which he/she is going to be appointed, which shows that the second respondent while issuing the Advertisement, dated 26.07.2016, has miserably failed to earmark which are all the posts meant for compassionate appointment available in each Villages and the posts meant for other candidates, which are going to be filled in by applying the rules of reservation.

4.Explaining further, he submitted that if the second respondent as per the notification is going to process the application, for instance, in the Village Ayan Poruvai, he is going to consider the candidates belonging to compassionate grounds, the petitioner need not apply. But, in the present case, nowhere it is stated that the posts which are vacant in the four Villages are meant for compassionate appointments. That is the first infirmity in the impugned notification. Secondly, the Government has issued G.O.(Ms)No.375, Revenue [Ser8(1)] Department, dated 19.10.2015, introducing an amendment in the Special Rules for the Tamil Nadu Village Assistants' Service [hereinafter referred to as 'the Rules'] indicating that the person appointed to the posts shall belong to the Taluk to which he is appointed, which clearly shows that the candidate need not belong to a particular Village. Whereas, the Advertisement issued by the second respondent shows that the candidate should belong to a particular Village. Otherwise, he is ineligible. Therefore,



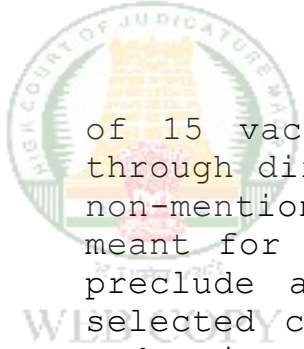
G.O.(Ms)No.375, Revenue [Ser8(1)] Department, dated 19.10.2015, also has not been properly followed.

5. Since an order of status quo was passed on 05.12.2016 by this Court and subsequently, the second respondent has filled up all the vacancies shown in the advertisement on 14.12.2016, Cont.P.(MD)No.1639 of 2016 was filed for violation of the order of status quo granted by this Court on 05.12.2016. On 22.12.2016 when the contempt petition was taken up for hearing, this Court issued statutory notice to the second respondent. On receipt of the statutory notice, the second respondent passed an order dated 18.01.2017, vide his proceedings in Na.Ka.No.A3/543/2016, not to give effect the order of appointment, dated 14.12.2016, pursuant to the order of status quo granted on 05.12.2016. In view of the said proceedings, dated 18.01.2017, all the selected candidates have come to this Court with W.M.P.(MD)No.1130 of 2017 for impleading them as respondents and this Court also accepting their request for impleadment, allowed their prayer. Accordingly, they were also impleaded as respondents 4 to 13 in the writ petition.

6. The learned counsel for the respondents 4 to 13 submitted that the writ petition is not maintainable, since the petitioner has submitted his application to the third respondent and he also called for interview by the third respondent. After attending the interview, the writ petitioner cannot come to this Court, because he is not entitled to challenge the notification issued by the second respondent, for which, he was not even applied. Moreover, the contention taken up by the petitioner that he belongs to a particular Village, hence, there must be reservation for each Village is wholly untenable. The reason is, in G.O.(Ms)No.521, Revenue [Ser.VII(2)] Department, dated 17.06.1998 and G.O.(Ms) No.375, Revenue [Ser8(1)] Department, dated 19.10.2015, the Government has already made it clear that one Taluk is one Unit. Therefore, the criteria said to have been shown in the advertisement that each Village will be considered as a Unit is no longer legally permissible. Therefore, any one is entitled to apply, provided he resides within the revenue jurisdiction, wherein the particular Village falls. Citing all those reasons, a prayer was made to dismiss the writ petition as there was no justification for the petitioner to come to this Court after taking part in the selection process.

7. W.M.P.(MD)No.10792 of 2017 has been filed by the respondents 1 to 3 herein to vacate the order of status quo granted by this Court on 05.12.2016.

8. Mr.R.Karthikeyan, learned Additional Government Pleader appearing for the respondents 1 to 3 explaining that when there are 19 vacancies arisen in the Villages mentioned in the Notification, it has been specifically mentioned therein that out



of 15 vacancies, only 11 vacancies are going to be filled up through direct recruitment by applying rule of reservation and the non-mentioning of four posts allotted to the respective places meant for compassionate appointment in the Notification would not preclude any one from making applications. The reason is, 11 selected candidates would be properly issued with an appointment order in any one of the Villages subject to their qualification, viz., they should reside in a particular Taluk etc. Therefore, the writ petitioner cannot contend before this Court that non-identifying the Village meant for compassionate appointment cannot be a ground to challenge the impugned notification. Referring to the second condition mentioned in the Notification that each candidate should be a permanent resident of the Village, it is stated that the candidates, who are going to be appointed should reside in that particular Village. Therefore, there is no infirmity in the impugned order.

9. Concluding his arguments, the learned Additional Government Pleader submitted that when the petitioner has applied for the post of Village Assistant and he has also taken part in the selection process, after the selection process was over as per the settled legal position, he cannot come to this Court and challenge the entire selection process citing unreasonable reason that the notification inviting to fill up 15 posts of Village Assistant does not segregate which are four vacancies meant for compassionate appointment and 11 vacancies meant for other candidates for selection on applying the rule of reservation.

10. I also find that the petitioner, who is hailing from Penthankonpatti, Palakuruchi Village, has applied for the post of Village Assistant. The third respondent has also issued call letter to the petitioner to attend the interview. On receipt of the call letter from the third respondent, he attended the interview. When G.O.(Ms)No.521, Revenue [Ser.VII(2)] Department, dated 17.06.1998, mentions that each candidate should belong to a particular Village as a pre-condition to apply for the post of Village Assistant, subsequent to an order passed by this Court in W.P.Nos.31317 of 2012 and 9600 of 2013 filed by one M.Govindasamy and V.Rajamani, wherein, this Court directed the State Government to make appropriate amendment in Rule 6 of the Rules regarding educational qualification and also in Rule 7 of the Rules relating to prescribing the condition that the person shall belong to the same Village, to which he is appointed or the adjoining Village, shall be re-considered by the Government in the light of the factual happenings. Accepting the said suggestion, Rule 7(c) of the Rules has been amended stating that the person appointed to the post shall belong to the Taluk, to which he is appointed.



WILDCOPY

candidates that he/she should belong to the same Village was deleted. On the other hand, the candidate residing in a Taluk is entitled to apply to the post of Village Assistant, which falls in any one of the Villages comes under the particular Taluk. If that situation is applied, the impugned notification, dated 26.07.2016, has not properly worded, whether the candidate not residing in the Village, where the vacancies are arisen can also apply, if he belongs to the same Taluk. However, the explanation offered by the learned Additional Government Pleader is that a candidate, who is belonging to a different Village but in same Taluk, applying to the post of Village Assistant should be a permanent resident of the Village to which he is appointed, after his appointment and this has been not properly worded.

12.I agree with said contention.

13.With regard to the other contentions that out of 15 posts earmarked for Village Assistant in 15 Villages mentioned therein, the Advertisement clearly mentions that four posts will be reserved for compassionate appointment and 11 vacancies will be considered for appointment to General Candidates by applying rule of reservation. In applying rule of reservation, I do not find any infirmity. Thirdly, the petitioner having applied for the post of Village Assistant in Ayan Poruvai, which belongs to the second respondent Taluk, although, has not challenged the said selection took place in the second respondent Taluk, he has questioned only the selection process taken place in the third respondent Taluk. The said Ayan Poruvai admittedly comes under Marungapuri Taluk. Since the second respondent has not identified four posts reserved for compassionate appointment which put the petitioner in grave prejudice, he has come forward to challenge the same.

14.I am not able to agree with the contentions made by the petitioner. The reason is, firstly, the petitioner, who is belonging to Ayan Poruvai Village coming under Marungapuri Taluk, has sent his application to the Tahsildar, Manaparai Taluk, third respondent herein. The third respondent also after verifying the particulars mentioned in the application coming to the conclusion that he should be allowed to participate in the selection process conducted by the Tahsildar, Marungapuri Taluk, as per the Notification, dated 26.07.2016, informed him to take part in the selection process held by the second respondent. In the same way, the third respondent has rightly shown the way for the petitioner to take part in the selection process conducted by the second respondent, although, he has addressed his application to the third respondent. Therefore, it goes without saying that the petitioner having accepted the call letter and after taking part in the selection process, cannot challenge the notification. Hence, the writ petition fails and the same is dismissed. No



costs. Consequently, W.M.P.(MD)Nos.16869 and 16870 of 2017 are also dismissed.

15. In view of the above order passed, W.M.P.(MD)No.10792 of 2017 filed by the respondents 1 to 3 herein, is allowed thereby vacating the order of status quo already granted by this Court on 05.12.2016. The second respondent is hereby directed to allow the selected candidates to re-join duty.

Sd/-

Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The District Collector,
Trichy District,
Trichy.
2. The Tahsildar,
Marungapuri Taluk,
Marungapuri,
Trichy District.
3. The Tahsildar,
Manaparai Taluk,
Trichy District.

+1cc to Mr.AN.Ramanathan, Advocate Sr.No.78369
+1cc to Mr.R.Subramanian, Advocate Sr.No.78426
+1cc to Spl.Government Pleader Sr.No.78595

SMN2

VB/KP/SAR1/26/09/2017/7P/7C

W.P. (MD)No.23504 of 2016
12.09.2017