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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.01.2018

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P (MD) No.1512 of 2018

and

W.M.P. (MD) Nos.1595 and 1596 of 2018

M.Mahalingam

... Petitioner

Vs.

1. The State of Tamil Nadu,
represented by its Secretary to Government,
Department of Animal Husbandry,
Chennai - 600 009.
2. The Commissioner,
Milk Producing and Milk Depot Development
Department,
No.3A, Pasumpon Muthuramalinganar Salai,
Nandhanam, Chennai - 600 035.
3. The Director,
Milk Co-operative Societies,
Audit Department,
212, Ramakrishnan Salai,
Tamil Nadu Slum Board Department Complex,
Mylapore, Chennai - 600 004.
4. The Deputy Registrar,
For Milk Producing (Aavin Administrative Office),
Collectorate Complex,
Virudhunagar,
Virudhunagar District.
5. The General Manager,
Virudhunagar District Milk Producing
Co-operative Union,
Srivilliputhur,
Virudhunagar District.

... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of certiorari, to call for the records related to employment notification advertisement No.2409/P&E-1/2017 dated 18.09.2017 and No.2409/P & E-1/2017 dated 09.01.2018 issued by the 5th respondent and quash the same.

For Petitioner : Mr.S.Mahalingam

For Respondents : Mr.K.Chellapandian, AAG assist by
Mr.K.Saravanan, G.A.



O R D E R

The petitioner is working as a Driver in the fifth respondent Co-operative Union. The fifth respondent has now issued an employment notification, calling for applications from eligible candidates for filling up as many as 16 number of posts.

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2.The notification is challenged primarily on two grounds. The writ petitioner would contend that the Society is presently running at a loss and therefore, as per the terms of the settlement entered into between the Management and the Union, when the Society is running at a loss, there cannot be creation or filling up of new posts. The second contention urged by the learned counsel for the petitioner is that the notification has been issued without being ratified by the General Body of the Society.

3.The learned Additional Advocate General appearing for Mr.K.Saravanan, learned Government Advocate appearing for the respondents would rebut both the contentions. A typed set of papers has been filed indicating that the Society did make profit during the last financial year. The order dated 03.01.2018 made in W.P.(MD) No.29 of 2018 was also brought to the notice of this Court. The prayer in the said writ petition was to convene a General Body Meeting of this Society. When the writ petition was taken up for hearing, a submission was made that the General Body Meeting was held on 28.12.2017 by following due process of law. The said submission was recorded and the writ petition was dismissed.

4.The learned Additional Advocate General primarily contended that the rights of the writ petitioner are in no way infringed. He is already an in-service employee. By the issuance of impugned notification, the rights of writ petitioner are not affected. The objection raised by the learned Additional Advocate General is that the present writ petition is more in the nature of Public Interest Litigation. It is a settled principle of law that only an aggrieved individual will have the locus-standi to maintain a writ of this nature. The Hon'ble Supreme Court of India in the decision reported in **(2014)15 SCC 308 - (Madanlal Vs. High Court of Jammu and Kashmir and Others)** observed that in service matters, Public Interest Litigation is not maintainable. When the rights of the writ petitioner have not been infringed by the impugned notification, the writ petitioner has no legs to stand before this Court. If the writ petitioner wants to espouse a larger cause, he must go before the Hon'ble Division Bench of this Court and file a writ petition in the nature of Public Interest Litigation. This Court is only dealing with the matters that can be said to fall in labour and service Portfolio. All that the contesting respondents propose to do in this case is only to fill up certain posts. The writ petitioner who is already employed in the 5th respondent



Society is not going to be ousted. Therefore, looked at from any angle, this Court is not in a position to entertain the writ petition.

5. This writ petition is accordingly dismissed. No costs. Consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar

To

1. The Secretary to Government,
State of Tamil Nadu,
Department of Animal Husbandry,
Chennai - 600 009.
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Milk Producing and Milk Depot Development
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5. The General Manager,
Virudhunagar District Milk Producing
Co-operative Union,
Srivilliputhur, Virudhunagar District.

+1cc to Spl. Government Pleader Sr.No. 44788

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VB/SKN/RSK/SAR3/31.01.2018/3P/7C

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and**

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