



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2018

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.11719 of 2011

and

M.P(MD)No.1 of 2011

K.Thennavan

... Petitioner

-vs-

1.The Revenue Divisional Officer,
Ramanathapuram Division,
Ramanathapuram.

2.The Tahsildar,
Tiruvadanai Taluk,
Ramanathapuram District.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the show cause notice issued in RC.No.B3/12325/2010 dated 07.10.2011 of the Second Respondent and quash the same and consequently, direct the respondents to allow the petitioner to continue as Village Assistant without any disturbance.

For Petitioner : Mr.S.Visvalingam
For Respondents : Mr.M.Muthu,
Addl. Govt. Pleader

O R D E R

The show cause notice issued by the second respondent vide proceedings, dated 07.10.2011 is under challenge in this writ petition.

2.The learned counsel appearing on behalf of the petitioner made a submission that the petitioner was appointed as Village Assistant vide proceedings, dated 12.11.2010 and joined duty on 18.11.2010. Appointment orders were challenged in W.P.(MD)No.14202 of 2010 and 9059 and 9180 of 2011. This Court passed the following order:-

"34.Therefore, the contention of learned counsel for the petitioners regarding competence of the Revenue Divisional Officer, Ramanathapuram, to cancel the selection, is rejected. Files also disclose a letter in Rc.No.A1/7791/2000, dated 20.11.2010, of the Revenue Divisional Officer, Ramanathapuram Division, Ramanathapuram, the second respondent herein, addressed to the District Collector, Ramanathapuram, at page 61 of the files in Roc.No.7799 2010 A1, containing in violation of irregularities Rule /(c) of the Tamil Nadu Village Assistant Service Rule, which reads as follows:-



"/(c). The person appointed to the post shall belong to the Village, to which he is appointed or the adjoining Village, if no suitable candidates is available from that Village".

35. Though the Taluk Tahsildar, Tiruvadanai, has stated that the selected petitioners are residing within a short distance from the respective groups, on verification, the Revenue Divisional Officer, Ramanathapuram, has found that there is a violation in this regard also. Therefore, the report submitted by the Tahsildar, is patently wrong. Perusal of the files reveal that the selection of the petitioners, is not only in contravention of the recruitment rules, pertaining to reservation policy of the Government in prescribing a specific roster, but there is arbitrariness in the process.

36. Perusal of the typed set of papers filed along with the writ petitions also shows that certain politicians, have given letters recommending the case of the aspirants and some of them have also been selected which is apparent from the details noted against the respective columns in the list prepared by the Taluk Tahsildar, Tiruvadanai. Even going by the averments, made in the affidavit, it is clear that recommendations, have been made by various persons and acting on the same, the Taluk Tahsildar, Tiruvadanai, has selected and appointed persons.

37. For the reasons stated supra, I do not find any merit in the writ petitions. The writ petitions are accordingly dismissed. Interim stay granted is vacated. There will be no order as to costs. Consequently, connected miscellaneous petitions are also dismissed."

3. Based on the orders passed by this Court, dated 06.09.2011, the second respondent issued a show cause notice to the writ petitioner, dated 07.10.2011 and an opportunity was provided to the writ petitioner to submit his explanation/objections within a period of 15 days from the date of receipt of a copy of the show cause notice. Instead of submitting his explanation, the writ petitioner has moved the present writ petition challenging the show cause notice. Writ against the show cause notice cannot be entertained in a routine manner. The writ proceedings shall be entertained only if the show cause notice was issued by an incompetent authority having no jurisdiction or allegations mala-fides are raised or if the same is in violation of statutory Rules in force. Even in the case of allegation of mala-fides, the person against whom such allegations are made are to be added as party-respondents in his personal capacity in the writ proceedings. In the absence of any one of the legal grounds, no writ can be entertained and judicial review in this regard is certainly limited and the Courts must be cautious before entertaining any such writ petition challenging the show-cause notice.



4. In the present writ petition, show cause notice was issued setting out the facts and circumstances and by providing an opportunity to the writ petitioner to submit his explanation/objections and it is left open to the writ petitioner to submit his explanation/objections and defend the case in accordance with the Rules in force.

5. In this view of the matter, this Court is not inclined to consider the case of the petitioner on merits. All the merits and demerits are to be considered by the competent authority after getting explanation/objections from the petitioner. The petitioner is at liberty to submit his explanation without causing any further delay and on receipt of such explanation, the authorities have to consider the materials available on record and pass orders on merits and in accordance with law.

6. With these observations, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Revenue Divisional Officer,
Ramanathapuram Division,
Ramanathapuram.

2. The Tahsildar,
Tiruvadanai Taluk,
Ramanathapuram District.

+1cc to Special Government Pleader, SR.No. 44590
+1cc to M/S.S.Visvalingam, Advocate SR.No. 43748

W.P. (MD) No.11719 of 2011
24.01.2018

am
JM/KK/SAR 3/12.02.2018/3P/5C