

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.02.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.MANIKUMAR
and
THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.1643 and 2021 of 2019
and
W.M.P.Nos.1830 and 2278 of 2019

Prayer in W.P.No.1643 of 2019

V.Gnanasambandam .. Petitioner

Vs.

- 1.The District Collector,
Collectorate of Nagappattinam,
Nagappattinam,
Nagappattinam District.
- 2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Myladuthurai Town & Taluk,
Nagappattinam District.
- 3.The Thasildhar,
O/o. The Thasildhar,
Sirkali Town & Taluk,
Nagappattinam District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the District Collector, Nagappattinam District, the 1st respondent herein, to stop all further proceedings of official notification published on 03.01.2019 in the news paper 'Dinamani' Tamil daily issued by the District Collector Nagappatinam the 1st respondent herein to recruit the 21 posts of 'Village Assistants' in Sirkali Taluk limit Nagappattinam District on the basis of the Petitioner's representation dated 10.01.2019.

For Petitioner : Mr.Dalit Tiger C.Ponnusamy

For Respondents: Mr.E.Manokaran,
Additional Government Pleader.

Prayer in W.P.No.2021 of 2019

A.Thamas Kumar

.. Petitioner

Vs.

1.The District Collector,
Collectorate of Nagappattinam,
Nagappattinam,
Nagappattinam District.

2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Myladuthurai Town & Taluk,
Nagappattinam District.

3.The Thasildhar,
O/o. The Thasildhar,
Sirkali Town & Taluk,
Nagappattinam District.

.. Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, issuance of a Writ of Mandamus, directing the District Collector, Nagappatinam District, the 1st respondent herein to stop all further proceedings of official notification published on 03.01.2019 and 04.01.2019 respectively in the news papers of 'Dinamani and Dinakaran' Tamil dailies issued by the District Collector Nagappatinam the 1st respondent herein to recruit the 21 posts of 'Village Assistants' in Sirkali Taluk limit Nagapattinam District, on the basis of the petitioner's representation dated 18.01.2019.

For Petitioner : Mr.Dalit Tiger C.Ponnusamy

For Respondents: Mr.E.Manokaran,
Additional Government Pleader.

COMMON ORDER

(Order of this Court was made by S.MANIKUMAR, J.)

Instant public interest litigations have been filed on the following prayers:-

(i) To direct the District Collector, Nagappattinam District, the first respondent herein, to stop all further proceedings of official notification published on 03.01.2019, in the newspaper 'Dinamani' Tamil daily issued by the District Collector, Nagappattinam, the first respondent herein, to recruit 21 posts of 'Village Assistants' in Sirkali Taluk limit Nagappattinam District, on the basis of the Petitioner's representation dated 10.01.2019.

(ii) To direct the District Collector, Nagappattinam District, the first respondent herein, to stop all further proceedings of official notification published on 03.01.2019 and 04.01.2019 respectively, in the newspapers of 'Dinamani and Dinakaran' Tamil dailies issued by the District Collector, Nagappattinam, the first respondent herein, to recruit 21 posts of 'Village Assistants' in Sirkali Taluk limit Nagappattinam District, on the basis of the petitioner's representation dated 18.01.2019.

2. Supporting the prayer sought for in W.P.Nos.1643 and 2021 of 2019, learned counsel for the petitioner, contended that the District Collector, Nagappattinam, the first respondent herein, has made a official notification on 02.01.2019 and the same was published on 03.01.2019 and 04.01.2019 respectively, in Tamil Daily's of Dinamani news paper, for inviting applications from the eligible candidates, for filling up 21 vacancies, to the post of 'Village Assistant' in Srikali Taluk limit in Nagappattinam District and that the said posts have to be filled up, as per the rules and regulations and reservation for various communities/categories, under rule 22 of the Tamil Nadu State Subordinate Service Rules and other government orders.

3. He further contended that the District Collector, Nagappattinam, has mentioned only the minimum educational qualifications, for the suitable candidates. But the District Collector, Nagappattinam has not mentioned in his office notification published in the newspaper, what is the maximum educational qualification, for the post of 'Village Assistants'. District Collector, Nagappattinam District, has mentioned the last date of receiving the applications from the eligible the candidates, on 13.01.2019 at 5.45 P.M. Generally the last date of receiving applications, must be on working days as per the norms and conditions of the recruitment scheme. But 13.01.2019 is Sunday, a regular holiday in a week and on 12.01.2019 is Saturday, was declared as a holiday for Pongal festival. A time limit of 15 days should be given in between the paper publication and the last date of receiving applications.

4. He further contended that the District Collector, Nagappattinam District, has not at all mentioned the age limit,

Community/Category wise. Previous Thasildhar of Sirkali one, Mr.M.Bala Murugan has also sent a letter to the District Collector, Nagapattinam District, the 1st respondent herein, through the Revenue Divisional Officer, Mayiladuthurai, Nagapattinam District, the 2nd respondent herein, vide Na.Ka.No.906/2015/A7, dated 22.06.2018, regarding the legal heirs of deceased government servants in service, who have made an application for employment under compassionate grounds. Legal heirs of deceased government servants in service 1.Kunnam Village Assistant, 2.Perumangalam Village Assistant and 3. Sothiyakkudi Village Assistant have made applications for the post of Village Assistants, on compassionate grounds. But respondent officials, have suddenly made publication only in Dinamani and Dinakaran Newspapers, inviting applications for the post of 21 Village Assistants, within Sirkali Taluk.

5. He further contended that the notification was issued for inviting applications from the eligible candidates from Sirkali Taluk only, for the post of Village Assistants. The advertisement must be made in all the news papers, particularly Daily-Thanthi and Dinakaran, because the Village people may not go through the News paper Dinamani, which is not familiar in rural side. Thus due publication as to the age limit and maximum educational qualification, not given.

6. In the above circumstances, writ petitioners have made representations dated 10.01.2019 and 18.01.2019, to the District Collector, Nagapattinam District, to stop the recruitment process of 21 Village Assistant within the limits of Sirkali Taluk, situated in Nagapattinam District as per publication dated 03.01.2019 in 'Dinamani' and 'Dinakaran' Tamil regional newspapers made by the District Collector of Nagapattinam.

7. Since the abovesaid representations of the writ petitioners, were not considered by the respondents/officials, writ petitioners have filed the instant writ petitions, for the reliefs, stated supra. सत्यमेव जयते

8. Heard the learned counsel for the parties and perused the materials available on record.

9. Taking note of the record of proceedings on 28.01.2019, on 12.02.2019, we ordered as hereunder:-

On 28/1/2019, a Hon'ble Division Bench of this Court has recorded as hereunder:-

"Mr.E.Manoharan, learned Additional Government Pleader appearing for the official respondents has produced the notice in Na.Ka.No.906/2015/A 7 issued by the Office of the

Tahsildar, Sirkazhi, dated 3/1/2019 and would submit that the said Notification has been put on the Notice Board and since communal roster has been followed and other qualification is also prescribed, the petitioner cannot have any grievance and would further urge that the writ petition is therefore, not maintainable as it is a Public Interest Litigation deals with the service matter.

2. Mr.C.Ponnusamy, learned counsel appearing for the petitioner would submit that even as per the Notification, filled up applications have to be submitted on 13/1/2019 at 5.45 p.m., which is admittedly Sunday and that apart wide publicity have not been given by putting it in the District website and therefore, the said recruitment, lacks transparency and fair procedure.

3. In response to the same, Mr.E.Manoharan, learned Additional Government Pleader prays for short accommodation to get instructions in that regard.

Call on 4/2/2019."

2. Going through the averments in the supporting affidavit, we find that the petitioner has contended that when the legal heirs of the Government staffs in service 1. Kunnam Village Assistant 2. Perumangalam Village Assistant and 3. Sothiyakkudi Village Assistant made applications, to provide employment assistance, on compassionate grounds, the District Collector, Collectorate of Nagapattinam, has issued a Notification, dated 2/1/2019, to fill up 21 posts of Village Assistant, on Sirkali Taluk limit, situated in Nagapattinam District.

3. Considering the above averments, we directed Mr.E.Manoharan, learned Additional Government Pleader, to ascertain as to whether there any other posts left out to be notified and also ascertain as to whether any request for compassionate appointment is pending.

4. Reverting, on instructions, the learned Additional Government Pleader submitted that no application, no request for compassionate appointment from the legal heirs of the above said Village Assistants is pending. He further submitted that on the death of a Government servant, in Ministerial service, a request has been made and that the same is processed. The said

post is not included in the impugned Notification.

5. Learned Additional Government Pleader further submitted that after the issuance of the impugned Notification, two more vacancies of Village Assistant had arisen, due to retirement. In April, there would be two more vacancies, on account of retirement. Submission of the learned Additional Government Pleader is placed on record.

6. Learned Additional Government Pleader further submitted that about 800 applications have been received and after going through the process, selection is completed. List of selected candidates is not published, due to the pendency of the writ petition.

7. Judicial notice can be taken and that on Sundays, there is no postal or Courier service. As per the impugned Notification, last date and time for receipt of the applications are 13/1/2019 at 5.45 p.m. Fixation of the date and time, has been taken note of by the Hon'ble Division Bench and posed a question as to whether there could be transparency or not?

8. Learned Additional Government Pleader is directed to ascertain and inform this Court as to whether last date for receipt of applications could be fixed on Sunday. He is further directed to furnish the details of selection.

9. Post on 14/2/2019."

10. On this day, when the matter came up for further hearing, Mr.E.Manoharan, learned Additional Government Pleader, submitted that taking into consideration the welfare of the applicants, the last date for receipt of applications, was fixed on 13.01.2019, being a Sunday. He further submitted that merely because the last date for receipt of applications, was fixed on Sunday that would not vitiate the selection.

11. Learned Additional Government Pleader further submitted that for 21 'Village Assistants' post, there was a notification published in Dinamani, Dinakaran, Dina Seithi and Maalai Murasu newspapers, besides it was affixed in notice board and wide publicity was given.

12. Responding the public notification and display in the office of the Tahsildar, Sirkazhi, totally 819 applications were received. On Saturday i.e.12.01.2019, 166 applications were received and on Sunday i.e.13.01.2019, 67 applications were received.

13. Learned Additional Government Pleader further submitted that even taking for grant for some of the newspapers have not reported the qualification regarding age, petitioner who claims to be a public interest litigant, cannot be permitted to vindicate those who were allegedly aggrieved.

14. According to him, if an individual was deprived of his right to apply for a post, that would not amount to public interest, to give rise to cause for a public interest petition.

15. He further submitted that a public interest petition is not maintainable in service matters. For the abovesaid reasons, he prayed for a dismissal of the instant writ petitions.

16. Before adverting the rival submissions, let us consider few decisions of the Hon'ble Supreme Court on public interest petitions, dealing with service matters:-

"4. When maintainability of the public interest writ petition, in service matters, was raised by us, Mr.J.Pooventhera Rajan, learned counsel for the petitioner, relied on, a Full Bench judgment of the Punjab and Haryana High Court, in Jaskaran Singh Brar vs State Of Punjab And Ors., (2005 (3) SLJ 354 P & H). At that juncture, we pointed out to the learned counsel for the petitioner that judgments of other High Courts, do not have any binding effect, more particularly, when the law declared by the Hon'ble Supreme Court, under Article 141 of the Constitution of India, is to the effect that, a public interest writ petition is not maintainable in service matters, he sought for an adjournment.

5. Way back in 1998, in Dr.Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others, reported in 1998 (7) SCC 273, the Hon'ble Supreme Court dealt with an issue, as to whether a Public Interest Writ Petition, at the instance of a stranger, could be entertained, by the Administrative Tribunal. After considering the decisions in Jasbhai Motibhai Desai vs. Roshan Kumar Haji Bashir Ahmed and others (1976) 1.S.C.C. 671, the law declared in Chandra Kumar vs. Union of India (1997) 3 SCC 261, and the provisions of the Administrative Tribunals Act, 1985, the Hon'ble Supreme Court held as follows:-

"18..... Section 3 (b) defines the word 'application' as an application made under Section 19. The latter Section refers to 'person aggrieved'. In order to bring a matter before the Tribunal, an application has to be made and the same can be made only by a person aggrieved by any order pertaining to any

matter within the jurisdiction of the Tribunal. We have already seen that the work 'order' has been defined in the explanation to sub-s. (1) of Section 19 so that all matters referred to in Section 3 (q) as service matters could be brought before the Tribunal. It in that context, Sections 14 and 15 are read, there is no doubt that a total stranger to the concerned service cannot make an application before the Tribunal. If public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal the very object of speedy disposal of service matters would get defeated.

19. Our attention has been drawn to a judgement of the Orissa Administrative Tribunal in Smt. Amitarani Khuntia Versus State of Orissa 1996. (1) OLR (CSR)-2. The Tribunal after considering the provisions of the Act held that a private citizen or a stranger having no existing right to any post and not intrinsically concerned with any service matter is not entitled to approach the Tribunal. The following passage in the judgement is relevant:

".....A reading of the aforesaid provisions would mean that an application for redressal of grievances could be filed only by a 'person aggrieved' within the meaning of the Act.

Tribunals are constituted under Article 323 A of the Constitution of India. The above Article empowers the Parliament to enact law providing for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or any local or other authority within the territory of India or under the control of the Government and such law shall specify the jurisdiction, powers and authority which may be exercised by each of the said Tribunals. Thus, it follows that Administrative Tribunals are constituted for adjudication or trial of the disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts. Its jurisdiction and powers have been well-defined in the Act. It does not enjoy any plenary power."

We agree with the above reasoning.

21. In the result, we answer the first question in the negative and hold that the Administrative Tribunal constituted under the Act cannot entertain a public

interest litigation at the instance of a total stranger."

6. In Ashok Kumar Pandey vs. State of W.B., reported in (2004) 3 SCC 349, the Apex Court at paragraphs 5 to 16, held as follows:-

"5. It is necessary to take note of the meaning of the expression "public interest litigation". In Stroud's Judicial Dictionary, Vol. 4 (4th Edn.), "public interest" is defined thus:

"Public interest.-(1) A matter of public or general interest 'does not mean that which is interesting as gratifying curiosity or a love of information or amusement; but that in which a class of the community have a pecuniary interest, or some interest by which their legal rights or liabilities are affected'."

6. In Black's Law Dictionary (6th Edn.), "public interest" is defined as follows:

"Public interest.-Something in which the public, the community at large, has some pecuniary interest, or some interest by which their legal rights or liabilities are affected. It does not mean anything so narrow as mere curiosity, or as the interests of the particular localities, which may be affected by the matters in question. Interest shared by citizens generally in affairs of local, State or national Government."

7. In Janata Dal case (1992 (4) SCC 305 = 1993 SCC (Cri) 36) this Court considered the scope of public interest litigation. In para 53 of the said judgment, after considering what is public interest, this Court has laid down as follows: (SCC p. 331, para 53)

"The expression 'litigation' means a legal action including all proceedings therein initiated in a court of law with the purpose of enforcing a right or seeking a remedy. Therefore, lexically the expression 'PIL' means a legal action initiated in a court of law for the enforcement of public interest or general interest in which the public or a class of the community have pecuniary interest or some interest by which their legal rights or liabilities are affected."

8. In para 62 of the said judgment, it was pointed out as follows: (SCC p. 334)

"Be that as it may, it is needless to emphasise that the requirement of locus standi of a party to a litigation is mandatory; because the legal capacity of the party to any litigation whether in private or public action in relation to any specific remedy sought for has to be primarily ascertained at the threshold."

9. In para 98 of the said judgment, it has further been pointed out as follows: (SCC pp. 345-46)

"While this Court has laid down a chain of notable decisions with all emphasis at their command about the importance and significance of this newly developed doctrine of PIL, it has also hastened to sound a red alert and a note of severe warning that courts should not allow its process to be abused by a mere busybody or a meddlesome interloper or wayfarer or officious intervener without any interest or concern except for personal gain or private profit or other oblique consideration."

10. In subsequent paras of the said judgment, it was observed as follows: (SCC p. 348, para 109)

"It is thus clear that only a person acting bona fide and having sufficient interest in the proceeding of PIL will alone have a locus standi and can approach the court to wipe out the tears of the poor and needy, suffering from violation of their fundamental rights, but not a person for personal gain or private profit or political motive or any oblique consideration. Similarly a vexatious petition under the colour of PIL brought before the court for vindicating any personal grievance, deserves rejection at the threshold."

11. It is depressing to note that on account of such trumpety proceedings initiated before the courts, innumerable days are wasted, which time otherwise could have been spent for the disposal of cases of the genuine litigants. Though we spare no efforts in fostering and developing the laudable concept of PIL and extending our long arm of sympathy to the poor, the ignorant, the oppressed and the needy whose fundamental rights are infringed and violated and whose grievances go unnoticed, unrepresented and unheard; yet we cannot avoid but express our opinion that while genuine litigants with legitimate grievances relating to civil matters involving properties worth hundreds of millions of rupees and substantial rights and criminal cases in which persons sentenced to death facing the gallows under untold agony and persons sentenced to life imprisonment and kept in incarceration for long years, persons suffering from undue delay in service matters – government or private, persons awaiting the disposal of tax cases wherein huge amounts of public revenue or unauthorized collection of tax amounts are locked up, detenus expecting their release from the detention orders etc. etc. are all standing in a long serpentine queue for years with the fond hope of getting into the courts and having their grievances redressed, the busybodies, meddlesome interlopers, wayfarers or

officious interveners having absolutely no real public interest except for personal gain or private profit either of themselves or as a proxy of others or for any other extraneous motivation or for glare of publicity, break the queue muffling their faces by wearing the mask of public interest litigation and get into the courts by filing vexatious and frivolous petitions of luxury litigants who have nothing to lose but trying to gain for nothing and thus criminally waste the valuable time of the courts and as a result of which the queue standing outside the doors of the courts never moves, which piquant situation creates frustration in the minds of the genuine litigants.

12. Public interest litigation is a weapon which has to be used with great care and circumspection and the judiciary has to be extremely careful to see that behind the beautiful veil of public interest an ugly private malice, vested interest and/or publicity-seeking is not lurking. It is to be used as an effective weapon in the armoury of law for delivering social justice to the citizens. The attractive brand name of public interest litigation should not be allowed to be used for suspicious products of mischief. It should be aimed at redressal of genuine public wrong or public injury and not publicity-oriented or founded on personal vendetta. As indicated above, courts must be careful to see that a body of persons or member of public, who approaches the court is acting bona fide and not for personal gain or private motive or political motivation or other oblique consideration. The court must not allow its process to be abused for oblique considerations by masked phantoms who monitor at times from behind. Some persons with vested interest indulge in the pastime of meddling with judicial process either by force of habit or from improper motives and try to bargain for a good deal as well to enrich themselves. Often they are actuated by a desire to win notoriety or cheap popularity. The petitions of such busybodies deserve to be thrown out by rejection at the threshold, and in appropriate cases with exemplary costs.

13. The Council for Public Interest Law set up by the Ford Foundation in USA defined "public interest litigation" in its Report of Public Interest Law, USA, 1976 as follows:

"Public interest law is the name that has recently been given to efforts which provide legal representation to previously unrepresented groups and interests. Such efforts have been undertaken in the recognition that ordinary marketplace for legal services fails to provide

such services to significant segments of the population and to significant interests. Such groups and interests include the proper environmentalists, consumers, racial and ethnic minorities and others."

14. The court has to be satisfied about: (a) the credentials of the applicant; (b) the prima facie correctness or nature of information given by him; and (c) the information being not vague and indefinite. The information should show gravity and seriousness involved. Court has to strike a balance between two conflicting interests: (i) nobody should be allowed to indulge in wild and reckless allegations besmirching the character of others; and (ii) avoidance of public mischief and to avoid mischievous petitions seeking to assail, for oblique motives, justifiable executive actions. In such case, however, the court cannot afford to be liberal. It has to be extremely careful to see that under the guise of redressing a public grievance, it does not encroach upon the sphere reserved by the Constitution to the executive and the legislature. The court has to act ruthlessly while dealing with imposters and busybodies or meddlesome interlopers impersonating as public-spirited holy men. They masquerade as crusaders of justice. They pretend to act in the name of pro bono publico, though they have no interest of the public or even of their own to protect.

15. Courts must do justice by promotion of good faith, and prevent law from crafty invasions. Courts must maintain the social balance by interfering where necessary for the sake of justice and refuse to interfere where it is against the social interest and public good. (See *State of Maharashtra v. Prabhu* (1994 (2) SCC 481 = 1994 SCC (L&S) 676) and *A.P. State Financial Corpn. v. Gar Re-Rolling Mills* (1994 (2) SCC 647 = AIR 1994 SC 2151. No litigant has a right to unlimited draught on the court time and public money in order to get his affairs settled in the manner as he wishes. Easy access to justice should not be misused as a licence to file misconceived and frivolous petitions. [See *Buddhi Kota Subbarao (Dr) v. K. Parasaran* (1996 (5) SCC 530 = 1996 SCC (Cri) 1038 = JT 1996 (7) SC 265] Today people rush to courts to file cases in profusion under this attractive name of public interest. Self-styled saviours who have no face or ground in the midst of public at large, of late, try to use such litigations to keep themselves busy and their names in circulation, despite having really become defunct in actual public life and try to smear and smirch the solemnity of court proceedings. They must really inspire confidence in courts and among the public, failing which such

litigation should be axed with a heavy hand and dire consequences.

16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations, whereas only a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts at times are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr) v. Jitendra Kumar Mishra* (1998) 7 SCC 273, this Court held that in service matters PILs should not be entertained, the inflow of the so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. This tendency is being slowly permitted to percolate for setting in motion criminal law jurisdiction, often unjustifiably just for gaining publicity and giving adverse publicity to their opponents. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Apart from the sinister manner, if any, of getting such copies, the real brain or force behind such cases would get exposed to find out whether it was a bona fide venture. Whenever such frivolous pleas are taken to explain possession, the court should do well not only to dismiss the petitions but also to impose exemplary costs, as it prima facie gives impression about oblique motives involved, and in most cases shows proxy litigation. Where the petitioner has not even a remote link with the issues involved, it becomes imperative for the court to lift the veil and uncover the real purpose of the petition and the real person behind it. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforestated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts."

7. In Dr.B.Singh (Dr.) v. Union of India, reported in (2004) 3 SCC 363, the Hon'ble Supreme Court decided the case on the same lines and held that PIL is not maintainable in service matters.

8. In Gurpal Singh vs. State of Punjab, reported in JT 2005 (5) SC 389, the Hon'ble Apex Court held that PIL is not maintainable in service matters.

9. In Indian Consumers Welfare Council vs. Union of India and another, reported in 2005 (3) L.W. 522, the abovesaid Council, filed a public interest writ petition, challenging a notification, issued by the 2nd respondent therein, by which, applications were invited, from degree holders, with degree in education, and consequently, prayed for a direction to the respondent therein, to appoint only those teachers, who were trained in teaching primary sections, for handling classes from 1st to 7th standards, to the post of Secondary Grade Teachers. Following the decision in Gopal Singh vs. State of Punjab, reported in 2005 J.T. [5] SC 389, the Hon'ble Apex Court ordered as follows:-

"This is a public interest litigation in respect of a service matter. It has been repeatedly held by the Supreme Court that no public interest litigation lies in service matters, the last decision being Gopal Singh vs. State of Punjab (2005 J.T. [5] SC 389. Accordingly, this writ petition is dismissed."

10. In N.Veerasingh vs. Union of India, reported in (2005) 2 MLJ 564, while considering a public interest litigation filed by a treasurer of a political party, praying to take action against Mrs.Lakshmi Praneesh, IAS, the fifth respondent therein, under the All India Services (Discipline and Appeal) Rules, 1969, for allegedly making allegations against a leader of a political party, following the above judgments of the Honourable Apex Court, a Hon'ble Division Bench of this Court held as follows:-

"It is settled law that no writ in the form of public interest litigation will lie under Article 226 of the Constitution in service matters. The petitioner has no locus standi to file the public interest litigation. The extraordinary powers of the High Court under Art.226 of the Constitution in matters of this kind is required to be used sparingly and only in extraordinary cases." "The service matters are essentially between the employer and the employee and it would be for the State

to take action under the Service Rules and there is no question of any public interest involved in such matters."

"The petition is not only not maintainable either in law of facts but also would amount to abuse of the process of Court."

11. In B.Srinivasa Reddy vs. Karnataka Urban Water Supply and Drainage Board Employees Association and others, reported in 2006 (11) SCC 731, at paragraph 61, the Apex Court held that in service matters only the non appointees can assail the legality of the appointment procedure.

12. In Neetu vs. State of Punjab, reported in 2007 (10) SCC 614, the Hon'ble Apex Court held as follows:-

"The scope of entertaining a petition styled as a public interest litigation, locus standi of the petitioner particularly in matters involving service of an employee has been examined by this court in various cases."

Referring to the decisions in Dr.Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others, reported in 1998 (7) SCC 273 and Ashok Kumar Pandey v. State of W.B reported in (2004 (3) SCC 349), cited supra, the Apex Court held that PIL in service matters has been held as not maintainable.

13. In Seema Dharmdhare, Secretary, Maharashtra Public Service Commission vs. State of Maharashtra, reported in 2008 (2) SCC 290, the Apex Court restated that PIL is not maintainable in service matters.

14. In Hari Bansh Lal vs. Sahodar Prasad Mahto and others, reported in 2010 (9) SCC 655, claiming himself as Vidyut Shramik Leader, a writ petition was filed before the High Court, challenging the appointment of Mr.Hari Bansh Lal, who was appointed, as the Chairman of Jharkand State Electricity Board. The High Court declared that his appointment was not only arbitrary, but also, contemptuous, and ultimately, quashed his appointment, which gave rise to an appeal, before the Apex Court. Addressing the issue, as to whether a public interest writ petition, is maintainable in service matters, following the earlier decisions in Dr.Duryodhan Sahu and others vs. Jitendra Kumar Mishra

and others, reported in 1998 (7) SCC 273 and Ashok Kumar Pandey v. State of W.B reported in (2004 (3) SCC 349) and other decisions, the Hon'ble Supreme Court held as follows:-

PIL in service matters:

11) About maintainability of the Public Interest Litigation in service matters except for a writ of quo warranto, there are series of decisions of this Court laying down the principles to be followed. It is not seriously contended that the matter in issue is not a service matter. In fact, such objection was not raised and agitated before the High Court. Even otherwise, in view of the fact that the appellant herein was initially appointed and served in the State Electricity Board as a Member in terms of Section 5(4) and from among the Members of the Board, considering the qualifications specified in sub-section (4), the State Government, after getting a report from the vigilance department, appointed him as Chairman of the Board, it is impermissible to claim that the issue cannot be agitated under service jurisprudence.

12) We have already pointed out that the person who approached the High Court by way of a Public Interest Litigation is not a competitor or eligible to be considered as a Member or Chairman of the Board but according to him, he is a Vidyut Shramik Leader. Either before the High Court or in this Court, he has not placed any material or highlighted on what way he is suitable and eligible for that post.

.....

The same principles have been reiterated in the subsequent decisions, namely, Dr. B. Singh vs. Union of India and Others, (2004) 3 SCC 363, Dattaraj Nathuji Thaware vs. State of Maharashtra and Others, (2005) 1 SCC 590 and Gurpal Singh vs. State of Punjab and Others, (2005) 5 SCC 136.

15) The above principles make it clear that except for a writ of quo warranto, Public Interest Litigation is not maintainable in service matters.

15. In Girjesh Shrivastava and others vs. State of Madhya Pradesh and others, reported in 2010 (10) SCC 707, appointments were challenged in PIL, on the grounds of contravention of rules, regarding reservation of ex-servicemen. The High Court allowed the writ petition and ordered cancellation of appointments, and dismissed the review petitions also. While considering the issue, as to whether the matter ought to have been taken, as

service dispute and not PIL, the Hon'ble Supreme Court, after considering a catena of decisions, at paragraphs 14 to 19 has held as follows:-

14. However, the main argument by the appellants against entertaining WP (C) 1520/2001 and WP (C) 63/2002 is on the ground that a PIL in a service matter is not maintainable. This Court is of the opinion that there is considerable merit in that contention.

15. It is common ground that dispute in this case is over selection and appointment which is a service matter.

16. In the case of Dr. Duryodhan Sahu and others vs. Jitendra Kumar Mishra and others (1998) 7 SCC 273, a three judge Bench of this Court held a PIL is not maintainable in service matters. This Court, speaking through Srinivasan, J. explained the purpose of administrative tribunals created under Article 323-A in the backdrop of extraordinary jurisdiction of the High Courts under Articles 226 and 227. This Court held "if public interest litigations at the instance of strangers are allowed to be entertained by the (Administrative) Tribunal, the very object of speedy disposal of service matters would get defeated" (para 18). Same reasoning applies here as a Public Interest Litigation has been filed when the entire dispute relates to selection and appointment.

17. In B. Srinivasa Reddy v. Karnataka Urban Water Supply & Drainage Board Employees' Association and others, reported in (2006) 11 SCC 731 (II), this Court held that in service matters only the non-appointees can assail the legality of the appointment procedure (See para 61, page 755 of the report).

18. This view was very strongly expressed by this Court in Dattaraj Nathuji Thaware v. State of Maharashtra and others, reported in (2005) 1 SCC 590, by pointing out that despite the decision in Duryodhan Sahu (supra), PILs in service matters 'continue unabated'. This Court opined that High Courts should 'throw out' such petitions in view of the decision in Duryodhan Sahu (supra) (Para 16, page 596).

19. Same principles have been reiterated in Ashok Kumar Pandey v. State of W.B., reported in (2004) 3 SCC 349, at page 358 (Para 16).

16. In Soma Velandi vs. Dr. Anthony Elangovan, reported in 2010 (4) CTC 8, following Gurpal Singh vs. State of Punjab, reported in JT 2005 (5) SC 389, a Hon'ble Division Bench held that PIL is not maintainable

in service matters.

17. In *Bholanath Mukherjee and others vs. Ramakrishna Mission Vivekananda Centenary College and others*, reported in 2011 (5) SCC 464, before the Hon'ble Supreme Court, a direction to set aside the appointment of the 3rd respondent therein, as Principal, was sought for, as the 3rd respondent was junior, to them, and did not have the requisite qualification. Reiterating the legal position that PIL is not maintainable in service matters, the Hon'ble Apex Court declined to entertain the challenge to the notices issued to Ramakrishna Mission to reconstitute the committees.

18. Though the present writ petition has been filed by a practicing advocate, we wish to incorporate the views of the Hon'ble Apex Court, while entertaining Public Interest Writ Petition, in *Ayaubkhan Noorkhan Pathan vs. State of Maharashtra and others*, reported in 2013 (4) SCC 465. At paragraphs 14 and 15, the Apex Court, observed as follows:-

14. This Court has consistently cautioned the courts against entertaining public interest litigation filed by unscrupulous persons, as such meddlers do not hesitate to abuse the process of the court. The right of effective access to justice, which has emerged with the new social rights regime, must be used to serve basic human rights, which purport to guarantee legal rights and, therefore, a workable remedy within the framework of the judicial system must be provided. Whenever any public interest is invoked, the court must examine the case to ensure that there is in fact, genuine public interest involved. The court must maintain strict vigilance to ensure that there is no abuse of the process of court and that, "ordinarily meddlesome bystanders are not granted a Visa. Many societal pollutants create new problems of non-redressed grievances, and the court should make an earnest endeavour to take up those cases, where the subjective purpose of the lis justifies the need for it. (Vide: *P.S.R. Sadhanantham v. Arunachalam & Anr.*, AIR 1980 SC 856; *Dalip Singh v. State of U.P. & Ors.*, (2010) 2 SCC 114; *State of Uttaranchal v. Balwant Singh Chauhal & Ors.*, (2010) 3 SCC 402; and *Amar Singh v. Union of India & Ors.*, (2011) 7 SCC 69)

15. Even as regards the filing of a Public Interest Litigation, this Court has consistently held that such a course of action is not permissible so far as service matters are concerned. (Vide: Dr. Duryodhan Sahu & Ors. v. Jitendra Kumar Mishra & Ors., AIR 1999 SC 114; Dattaraj Natthuji Thaware v. State of Maharashtra, AIR 2005 SC 540; and Neetu v. State of Punjab & Ors., AIR 2007 SC 758)

19. In Tmt.Sumathi and four others vs. State, rep. by the Chief Secretary to the Government of Tamil Nadu, Chennai and 15 others (W.P.No.25704/2013, Decided on 13.03.2014), a Hon'ble Division Bench of this Court, held that PIL is not maintainable in service matters.

20. In a latest decision in Tmt.P.Lakshmi vs. State, rep. by the Chief Secretary, (W.P.No.25704/2013 Decided on 13.03.2014), the Hon'ble First Bench of this Court, held that writ petition is not maintainable in service matters.

21. Learned counsel for the petitioner has relied on a Full Bench decision of the Punjab and Haryana High Court, reported in 2005 (3) SLJ 354. As observed earlier, when there is clear pronouncement of law declared by the Supreme Court, on the issue as to whether a public interest litigation is maintainable in service matters, under Article 141 of the Constitution of India, the decision is binding on all courts.

22. At this juncture, we deem it is necessary to extract Article 141 of the Constitution of India, which reads as follows:-

141. Law declared by Supreme Court to be binding on all courts.-- The law declared by the Supreme Court shall be binding on all courts within the territory of India.

23. When PIL is not maintainable in service matters, and time and again been reiterated, by the Hon'ble Supreme Court, in a series of decisions, extracted supra, with due respect, the decision rendered by the Punjab and Haryana High Court in Jaskaran Singh Brar vs State Of Punjab And Ors., (2005 (3) SLJ 354 P & H), has no binding effect."

17. In the light of the decisions of the Hon'ble Supreme Court, instant writ petitions which primarily deals with service matter, is not maintainable in law. Even taking it for granted that it is maintainable, on the facts and circumstances of the case on hand, we shall address grounds of challenge to the notification issued to fill up 21 post of Village Assistants in Sirkazhi Taluk, Nagapattinam District.

18. The first aspect of non-consideration of compassionate appointment, sought for by the legal heirs of the above said Village Assistants stated supra, has already been addressed, in Paragraph No.4 of the order dated 12.02.2019. The second submission is with reference to Sunday being fixed as the last date for receipt of applications. By fixing the said date, which has been explained and intended to benefit the aspirants. Translated version of the notice fixing on 13.01.2019 i.e. Sunday, as the last date for receipt of applications, is extracted hereunder:-

"NOTICE

As today (13.01.2019) being the last day for submission of application to the post of Village Assistants, in the interest of applicants, applications are invited on Sunday also. The applicants are requested to present filled-in applications to the Head Quarters Deputy Tahsildar, who is specially nominated therefor.

Yours
Tahsildar,

Sirkali."

19. By extending the last date for receipt of applications i.e. on 13.01.2019 (Sunday), 67 applications have been received. Fixing Sunday as a last date has only benefited the aspirants and it is not put any aspirant in a disadvantage position. As stated supra, 819 applications have been received against 21 vacancies to the post of Village Assistants in Sirkazhi Taluk, Nagapattinam District. सत्यमेव जयते

20. Lastly, the notification has been published in newspapers, Dinamani, Dinakaran, Dina Seithi and Malai Murasu and also affixed in the notice board. Thus wide publicity has been given.

21. Petitioner has no right, to demand that the notification should be published only in the newspapers of his choice. Though he has contended that publication should have been effected in two newspapers 'Dinakaran' and 'Dinathanthi', respectively, in fact respondents have published the notification in Dinakaran. Notification published in newspapers, is to make the aspirants to know that the post is vacant and that he can apply. Suffice

if the newspapers in which the notification is published has wide circulation. Petitioner has not placed any material to substantiate that the newspaper Dinamani has no wide circulation in Nagappattinam District.

22. There is no complaint from any of the aspirants to the post of Village Assistants, that because, age was not notified in the news item, they could not apply for the post. As rightly contended by the learned Additional Government Pleader, if there was any omission, it is for the affected party to vindicate his grievances, in the manner known to law and it is certainly does not call for a public interest, exposing the cause of the general public.

23. There is no rule or regulation to mention the maximum qualification in the notification. Contention to the contrary is untenable.

24. None of the grounds raised, warrant interference to quash the notification and stop the recruitment process. For the abovesaid reasons, the instant writ petitions deserve to be dismissed and accordingly dismissed. No costs. Consequently, the connected writ miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dm

To

1.The District Collector,
Collectorate of Nagappattinam,
Nagappattinam,
Nagappattinam District.

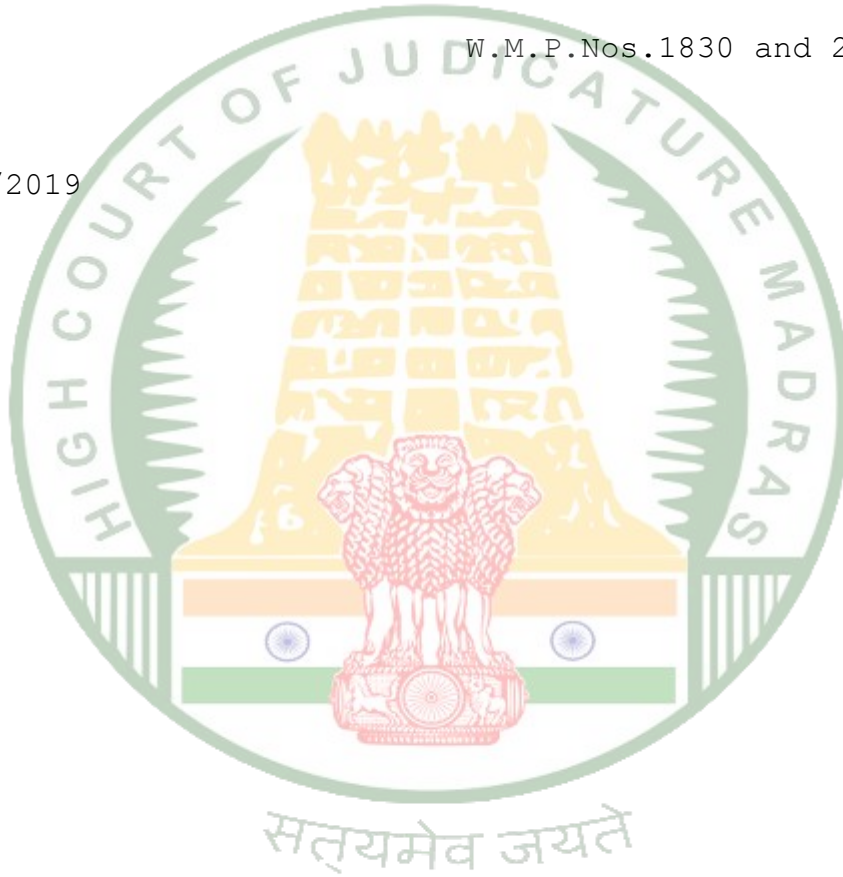
2.The Revenue Divisional Officer,
O/o. The Revenue Divisional Office,
Myladuthurai Town & Taluk,
Nagappattinam District.

3.The Thasildhar,
O/o. The Thasildhar,
Sirkali Town & Taluk,
Nagappattinam District.

+2cc to Mr.Dalit Tiger C.Ponnusamy, Advocate Sr.13292,13293
++1cc to the Government pleader Sr.14077

W.P.Nos.1643 and 2021 of 2019
and
W.M.P.Nos.1830 and 2278 of 2019

rsi[co]
srg 23/03/2019



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