

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.14393 of 2013 and
M.P.No.1 of 2013

D.Krishnan

... Petitioner

-vs-

- 1.The State of Tamil Nadu,
Rep. by its Secretary to Government
Tamil Nadu Municipal Administration,
and Water Supply Department,
Fort St.George, Chennai-600 009.
- 2.The Commissioner of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.
- 3.The Director of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.
- 4.The Regional Director of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.
- 5.The Commissioner,
Tambaram Municipality,
Tambaram, Kancheepuram District.

6.Thiru.Palani

... Respondents

PRAYER:

Petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 5th respondent to consider the petitioner's representation dated 09.05.2013 and to pass order suitably and pass such further or other orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.A.Rajeshkanna
For R1 to R4 : Mr.P.Siva Shanmuga Sundaram
Spl.Govt.Pleader
For R5 : Mr.N.K.Ponraj
For Mr.P.Srinivas

O R D E R

This Writ Petition has been filed, seeking for a direction to the 5th respondent to consider the petitioner's representation dated 09.05.2013.

2. The case of the petitioner is that he was called for an interview on 26.02.2011 to fill up the post of Sweeper in the 5th respondent Municipality and in the said interview, he came out successful and on account of announcement of election date, no one was appointed. The grievance of the petitioner is that subsequently, he came to know that one Palani / R6 herein was appointed, which forced him to submit a representation dated 15.05.2012 to the 5th respondent for consideration of appointing him in the place of R6.

3. It is the further case of the petitioner that since the brother of R6 has been working as Driver attached to the 5th Respondent, in order to accommodate his brother, the petitioner was not appointed in the post of Sweeper. Therefore, the petitioner had sent yet another representation dated 09.05.2013 to the 5th respondent for cancellation of the appointment of R6, with a request to appoint the petitioner in his place. As his representation did not evoke any response, he is before this Court, seeking for the above relief.

4. The 5th Respondent has contended that it is not disputed that the petitioner was issued a call letter for interview and pursuant to the declaration of State Assembly General Election, 2011 and on account of existence of election code of conduct, the process of appointment of Sanitary Workers was stopped in the midway. Since the limit of eligible persons sponsored by the Employment Exchange got lapsed after a period of six months, the previous procedure did not go through. Subsequently, no fresh list has been called for from the Employment Exchange to fill up the post of Sanitary Workers, but, however, a list was drawn from the Employment Exchange to fill up the post of Gardener by way of direct recruitment, in which, one Mr.Palani was selected and appointed as Gardener and his appointment was not against the vacancy, for which, the petitioner was called for interview.

5. Upon considering the submissions on either side, it is seen that more than eight years have gone by and that the petitioner has not challenged the appointment of R6. The post of Sanitary Workers got elapsed due to its continuous vacancy for more than six months and necessary permission has to be sought from the concerned authorities for revival of the said post and therefore, the petitioner is not entitled to any relief. It is further seen that the petitioner had already approached this Court by filing a Writ Petition in W.P.No.22145 of 2012 and the said Writ Petition was dismissed by this Court on 10.01.2013.

6. A reading of the entire pleadings unfolds the truth that the 5th Respondent did not pursue with the recruitment process to the post of Sweeper, consequent to the announcement of State Level General Assembly Election, 2011 and in view of coming into force the Election code of conduct. It is not in dispute that in the interregnum period, the 6th Respondent was appointed as Gardener and not as a Sweeper, by means of another proceedings. Therefore, I find no force in the contention raised by the learned counsel for the petitioner that the 6th Respondent was appointed in the place of the petitioner, as admittedly the petitioner was called for interview to the post of Sanitary Worker and it cannot be said that the 6th Respondent was appointed in the place of petitioner by converting the post itself, as the nature of both the jobs is different. Moreover, the petitioner has not challenged the order of appointment issued to the 6th respondent, in absence of which, no blanket direction can be issued in this petition.

7. In view of what is stated herein-above, the petitioner is not entitled to any relief. Accordingly, the Writ Petition stands dismissed as devoid of merits. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

सत्यमेव जयते
Assistant Registrar(CS IX)

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To:

- 1.The Secretary to Government
Tamil Nadu Municipal Administration,
and Water Supply Department,
Fort St.George, Chennai-600 009.

Sub Assistant Registrar
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2.The Commissioner of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.

3.The Director of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.

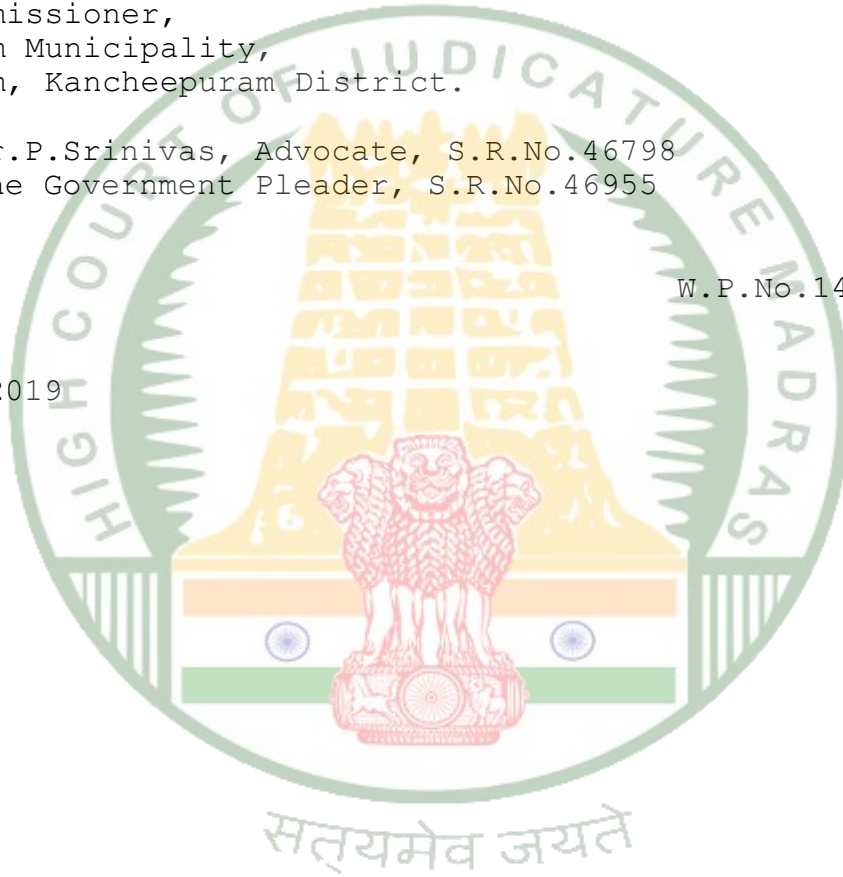
4.The Regional Director of Municipal Admin,
Ezhilagam Annex,
Chepauk, Chennai-5.

5.The Commissioner,
Tambaram Municipality,
Tambaram, Kancheepuram District.

+1cc to Mr.P.Srinivas, Advocate, S.R.No.46798
+1cc to the Government Pleader, S.R.No.46955

W.P.No.14393 of 2013

VD(CO)
CS/29/07/2019



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