

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.07.2019

CORAM:

THE HONOURABLE MS.JUSTICE V.M.VELUMANI

W.P.No.19863 of 2009

R.Shanmugam

.. Petitioner

Vs.

1. The District Collector,
Vellore District,
Vellore.

2. The Tahsildar,
Tirupattur Taluk,
Tirupattur.

3. V.Velayutham

4. S.Vadivukkarasi

5. The Employment Exchange Officer,
Employment Exchange,
Vellore.

.. Respondents

(5th respondent impleaded vide order
dated 10.11.2010 made in M.P.No.1 of 2010
in W.P.No.19863 of 2009)

Prayer:

Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent with regard to the appointments made to (i) the 3rd respondent as Village Assistant at Kondakunthanahalli vide Se.Mu.Anai.En.A3/12138/06 dated 13.03.2008 and (ii) the 4th respondent as Village Assistant at Athiyur vide Se.Mu.Anai.En.A3/12138/06 dated 13.03.2008 and quash the same consequently, directing the respondents 1 and 2 to appoint the petitioner as Village Assistant in the 2nd respondent Taluk.

For Petitioner : Mr.R.Malaichamy

For R1, R2 & R5: Mr.R.S.Selvam,
Government Advocate

For RR3 & 4 : Ms.Y.Kavitha
for M/s.Giridhar & Sai Associates

O R D E R

This Writ Petition is filed to issue a writ of Certiorarified Mandamus, calling for the records of the 2nd respondent with regard to the appointments made to (i) the 3rd respondent as Village Assistant at Kondakunthanahalli vide Se.Mu.Anai.En.A3/12138/06 dated 13.03.2008 and (ii) the 4th respondent as Village Assistant at Athiyur vide Se.Mu.Anai.En.A3/12138/06 dated 13.03.2008 and quash the same consequently, directing the respondents 1 and 2 to appoint the petitioner as Village Assistant in the 2nd respondent Taluk.

2.The learned counsel appearing for the petitioner contended that the 2nd respondent wanted to fill up 13 posts of Village Assistant in and around Tirupattur Taluk. The 2nd respondent requested the Employment Exchange to sponsor eligible candidates. The 5th respondent, Employment Exchange sponsored eligible candidates including petitioner and respondents 3 and 4. The 2nd respondent called upon the petitioner to attend the interview and for document verification. The petitioner attended the interview and thereafter, he did not receive any information. On an enquiry with the 2nd respondent and from the information obtained under the Right to Information Act, the petitioner came to know about the appointment of 13 persons to the post of Village Assistant in Tirupattur Taluk. The respondents 3 and 4 do not belong to the Villages to which they were appointed and they are not native of the said Villages. The petitioner and respondents 3 and 4 belong to Backward Community. According to the petitioner, he is senior to the respondents 3 and 4 in employment registration and therefore, the petitioner ought to have been appointed in any one of the post to which the respondents 3 and 4 were appointed. The failure on the part of the respondents 1 and 2 to appoint the petitioner to the post of Village Assistant is arbitrary and violative of Rule 7(iii)(c) of the Special Rules for Tamil Nadu Village Servants Service and prayed for allowing the Writ Petition.

3.The 2nd respondent filed counter affidavit and submitted that the 3rd respondent is a native of Jayapuram Village and he was appointed as a Village Assistant in Bynapalli Village which lies in the same road in Ammankoil firka itself. The native

Village of 3rd respondent is nearer to Bynapalli Village. As far as the 4th respondent is concerned, she belongs to Pulikuttai Village and appointed in the same Revenue Village viz., Adiyur Village, notified for Backward Class women non-priority, which lies in Koratti firka. The native Village and the appointment Village for the 4th respondent are one and the same. The petitioner is native of Kudiyanakuppam Village which lies in Jolarpet firka, 9 km away from Bynapalli and Adiyur Villages in which respondents 3 and 4 were respectively appointed. Adiyur Village is reserved for Backward Community women and petitioner cannot be appointed in Adiyur Village. The 2nd respondent appointed respondents 3 and 4 following the rules and procedure and there is no arbitrariness and violation of Rule 7(iii)(c) of the Special Rules for Tamil Nadu Village Servants Service.

4. The respondents 3 and 4 filed common counter affidavit and the learned counsel appearing for the 3rd respondent contended that the petitioner belongs to Kudiyanakuppam Village which is 20 kms away from Bynapalli Village and not an adjoining Village either to Adiyur Village or Bynapalli Village. The 4th respondent being a women, was appointed in the Village which was reserved for Backward Community women. The petitioner has no locus-standi as there is no vacancy in petitioner's native Village or adjoining Village and prayed for dismissal of the Writ Petition.

5. Heard the learned counsel appearing for the petitioner, learned Government Advocate appearing for the respondents 1, 2 & 5 as well as the learned counsel appearing for the respondents 3 and 4 and perused the materials available on record.

6. From the materials available on record, it is seen that the 4th respondent is a native of Pulikuttai Village which belongs to Adiyur Revenue Village. The 4th respondent was appointed as Village Assistant in Adiyur Revenue Village, which was reserved for Backward Community women. The contention of the learned counsel appearing for the petitioner is that both the respondents 3 and 4 do not belong to the Village to which they are appointed as Village Assistants and the petitioner being senior to both the respondents 3 and 4 in employment registration ought to have been appointed in any one of the post in which respondents 3 and 4 were appointed. From the materials on record, it is seen that the 4th respondent belong to Pulikuttai Village which belongs to Adiyur Village in which she was appointed as Village Assistant. As far as the 3rd respondent is concerned, he belongs to Jayapuram Village and he was appointed as the Village Assistant in Bynapalli Village. According to the respondents 2 to 4, the Bynapalli Village is adjoining Village to the native of the 3rd respondent and it is only 2 ½ kms away from Bynapalli Village and petitioner belongs

to Kudiyanakuppam Village which is far away from the Bynapalli Village and Adiyur Village. The petitioner except stating that respondents 3 and 4 belong to different Village and over looking his seniority, the respondents 3 and 4 were appointed as Village Assistants, has not stated the distance between his native Village and Bynapalli Village and Adiyur Village to which the respondents 3 and 4 were appointed. The petitioner and the respondents 3 and 4 relied on the guidelines issued in G.O.Ms.No.521 Revenue Department dated 17.06.1998 and also relied on the Rule 7(iii)(c) of the Special Rules for Tamil Nadu Village Servants Service, which reads as follows:

Special Rules for Tamil Nadu Village Servants Service
"7(iii)(c). The person appointed to the post shall belong to the Village to which he is appointed or adjoining Village if no suitable candidate is available from that Village."

7.As per the above guidelines, a person native of his Village has to be appointed as the Village Assistant. If no suitable candidate is available in the said Village, a person from the adjoining Village can be appointed. In the present case, the contention of the learned counsel appearing for the respondents is that the 3rd respondent belongs to the adjoining Village, Jayapuram, 2 ½ kms away from Bynapalli Village to which he was appointed, whereas the native Village of the petitioner is 9 ½ kms away from Bynapalli Village and 4th respondent belongs to the same Revenue Village to which she was appointed. The petitioner has not produced any materials to dispute the said contention. The petitioner has not furnished the distance from his native Village to that of Bynapalli Village and Adiyur Village and has not produced any materials to show that 4th respondent does not belong to the same Adiyur Revenue Village. In such circumstances, the contention of the learned counsel appearing for the respondents has considerable force and is acceptable. From the above materials, it is seen that the 2nd respondent has not appointed the respondents 3 and 4 in violation of guidelines issued in G.O.Ms.No.521 Revenue Department dated 17.06.1998.

8.For the above reason, this Writ Petition is liable to be dismissed and is hereby dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

gsa

To

1. The District Collector,
Vellore District,
Vellore.
2. The Tahsildar,
Tirupattur Taluk,
Tirupattur.
3. The Employment Exchange Officer,
Employment Exchange,
Vellore.

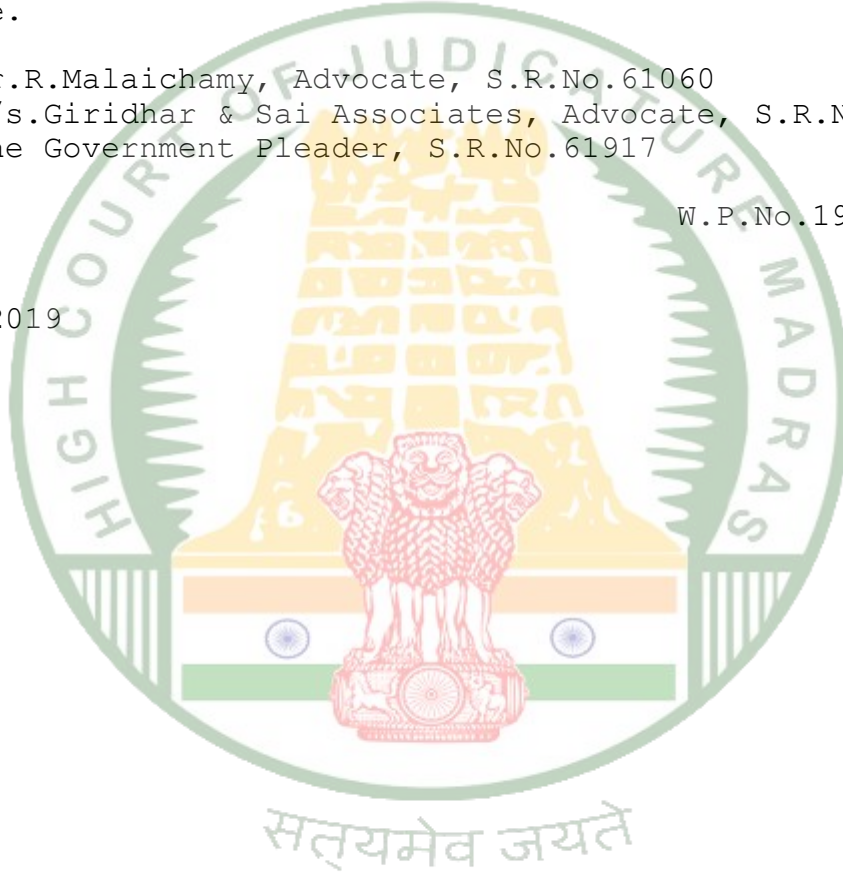
+1cc to Mr.R.Malaichamy, Advocate, S.R.No.61060

+1cc to M/s.Giridhar & Sai Associates, Advocate, S.R.No.62292

+1cc to the Government Pleader, S.R.No.61917

W.P.No.19863 of 2009

PM(CO)
CS/17/09/2019



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