

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 01.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE SUBRAMONIUM PRASAD

W.P.Nos.23943 to 23945 of 2010
MP.No.1, 1 & 1 of 2010, 2 of 2010

1. Ganesan (in WP.No.23943/10)
2. Sumitha (in WP.No.23944/10)
3. G.Karthikeyan (in WP.No.23945/10) ... Petitioners

Vs.

1. The District Collector,
Vellore District, Vellore.
2. The Revenue Divisional Officer,
Ranipet Kottam, Ranipet, Vellore District.
3. The Tahsildar,
Arcot Taluk, Arcot, Vellore District. ... Respondents
(in all WPs)

Common Prayer: Writ petition filed under Article 226 of the Constitution of India, for a Writ of Certiorarified Mandamus, calling for the entire records relating to Na.Ka.Nos.A3/5634/2008 & A3/551/2009 dated 19.08.2010 passed by the 3rd respondent and to quash the same and consequently direct the respondent to appoint the petitioner for the post of village assistant in Palli village, Marudham Village.

For Petitioner : Mr.T.Karunakaran(for all WPs)

For Respondents : Ms.K.Bhuvaneswari, AGP for R1 to R3
(for all WPs)

COMMON ORDER

These writ petitions are for a certiorarified Mandamus calling for the entire records relating to Na.Ka.Nos.A3/5634/2008 & A3/551/2009 dated 19.08.2010 passed by the Tahsildar, Arcot Taluk, Vellore District and to quash the same and consequently direct the respondent to appoint the petitioner for the post of village assistant in Palli village.

2. Shorn of details, the facts are that the petitioner

completed his 8th standard and was therefore entitled to be appointed as Village Assistant. The petitioner received an interview letter from the Tahsildar, Arcot Taluk, calling him for an interview on 06.06.2008 for the appointment to the post of Village Assistant. The petitioner states that he appeared for interview and produced the relevant documents. It is stated that he came to know some other person has been appointed as Village Assistant. It is stated that the petitioner's juniors namely Vinayagam, Anandhi, Jayavelu, Thirthamalai, Kalaivani and Abirami were appointed as the Village Assistant.

3. The petitioners states that these appointments were contrary to the Government order and more particularly, to the G.O.Ms.No.429 dated 08.08.2007, which states that the post of Village Assistant be given to a person who resides in the same village and knows how to ride a bicycle. The petitioners states that out of the persons who were appointed, many of them had given wrong address and therefore were not entitled for the post. The petitioner states that he being a resident in the same village was been entitled for appointment to the post of Village Assistant. The petitioner states that on his representation, the 3rd respondent by an order dated 27.12.2008, removed a) B.Maadan Raj, b) M.Jayavelu, c) S.Theerthamalai and d) T.Vinayagam as Village Assistant. The petitioner states that since the post was vacant in the said village, he gave a representation for being appointed to the post of Village Assistant. Since the representation of the petitioner was not considered, the petitioner moved this Court by filing Writ Petition No.2218 of 2009. This Court by an order dated 08.01.2009 directed that the respondents must consider the representation of the petitioner within 8 weeks from the date of receipt of a copy of the order. Since the direction of this Court was not complied with, the petitioner filed a contempt petition Nos.1128-1131 of 2009. This Court observed as under:-

" The learned Additional Government Pleader for the respondent has produced before this Court the proceedings (four in numbers) in Na.Ka.No.A3/5634/2008, dated 19.08.2010; Na.Ka.No.A3/5634/2008, dated 19.08.2010; Na.Ka.No.A3/7704/2008, dated 19.08.2010 and Na.Ka.No.A3/551/2009, dated 19.08.2010, in and by which, the respondent has considered the representation of the petitioners dated 08.01.2009 and passed orders rejecting the petitioner's claim."

A perusal of order would state that the contempt petition was closed for the reason that the respondent had produced a proceedings dated in Na.Ka.No.A3/5634/2008, dated 19.08.2010; Na.Ka.No.A3/5634/2008, dated 19.08.2010; Na.Ka.No.A3/7704/2008,

dated 19.08.2010 and Na.Ka.No.A3/551/2009, dated 19.08.2010. These proceedings are the subject matter of the instant writ petitions.

4. Heard the counsel for the parties.

5. The learned counsel for the petitioner would state that the very same Vinayagam who was removed by the earlier proceedings has now been found more suitable for appointment. Be that as it may, the writ petitions has not impleaded Vinayagam as a party to the petition. Vinayagam whose rights will be directly affected by the result of the writ petition is a necessary party to the writ petition. The writ petition is therefore clearly hit by non-joinder of necessary parties. Even though CPC is not applicable to writ proceedings, the principles of order I Rule 9 would be applicable. Order Rule 9 of the CPC reads as under:-

"Misjoinder and non-joinder.-no suit shall be defeated by reason of the misjoinder or non-joinder of parties, and the court may in every suit deal with the matters of controversy so far as the regards the rights and interests of the parties actually before it. Provided that nothing in this rule shall apply to non-joinder of a necessary party"

The proviso of Order 1 Rule 9 had any proceeding which does not implead necessary parties to the proceedings is bad for the reason of non-joinder of parties.

6. The Hon'ble Supreme Court of India in the case of Prabodh Verma vs. State of Uttar Pradesh, AIR 1985 SC 167, held that: -

"A High Court ought not to hear and dispose of a writ petition under Article 226 without the persons who would be vitally affected by its judgment being before it as respondents or at least some of them being before it as respondents in a representative capacity if their number is too large to join them as respondents individually, and, if the petitioners refuse to so join them, the High Court ought to dismiss the petition for non-joinder of necessary parties."

7. In view of the above said judgment, these writ petitions are bad for the reason of non-joinder of parties. Writ petitions are dismissed. No Costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CJ Conf)

//True Copy//

Sub Assistant Registrar

Pkn.

To

1. The District Collector,
Vellore District, Vellore.

2. The Revenue Divisional Officer,
Ranipet Kottam, Ranipet, Vellore District.

3. The Tahsildar,
Arcot Taluk, Arcot, Vellore District.

+3cc to Mr.T.Karunakaran, Advocate, S.R.No. 84312 to 84314
+1cc to the Government Pleader, S.R.No. 84577

W.P.No.23943 to 23945 of 2010

KK(CO)
GN(05/11/2019)



WEB COPY