

W.M.P.No.7255 of 2018 in W.P.No.1162 of 2018,
W.M.P.No.8264 of 2018 in W.P.No.2467 of 2018 and
W.M.P.No.7635 of 2019 in W.P.Nos.28062 & 28067 of 2018

and

W.M.Ps.1448 & 1449 of 2018 in W.P.No.1162 of 2018,
W.M.P.Nos.3009 & 3010 of 2018 in W.P.No.2467 of 2018,
W.M.P.No.32692 in W.P.No.28062,
W.M.P.No.32697 in W.P.No.28067 of 2018,
W.M.P.No.30794 & 30899 of 2018 in W.P.Nos.26482 & 26553 of 2018,
W.M.P.(MD).No.11809 of 2018 in W.P.(MD).No.12923/2018,
W.M.P.Nos.7515 of 2019 in W.P.No.6704 of 2019
& W.M.P.No.7523 of 2019 in W.P.No.6512 of 2019

S.M.SUBRAMANIAM, J.

The Recruitment Notification dated 30.12.2017 issued in Notification No.17624/2017/J1, inviting applications for appointment to the Post of Sanitary Inspector in various Municipalities governed under the Tamil Nadu Municipal Public Health Service Regulations 1970 is under challenge in the present writ petitions.

2.The Recruitment Notification was issued, to fill up 110 Post of Sanitary Inspector in various Municipalities.

3.The grievances of the writ petitioners are that their eligibility is questioned on the ground that they are not coming within the qualifications notified impugned in the impugned Notification.

4.The respective learned counsels appearing on behalf of the writ

petitioners made submissions by stating that all the writ petitioners also studied in the recognised or affiliated institutions and therefore, their right to participate in the selection cannot be denied. The candidates, who studied in 'Water, Sanitation and Hygiene Institute[Hereinafter referred to as 'WASH Institute'], Dindigal, must also be provided with an opportunity to participate in the process of selection as their institution is affiliated to the Madurai Kamaraj University.

5.The learned counsels for the writ petitioners cited the Government letters and other documents, showing that the institutions are recognised or affiliated with the University. The grievances of the writ petitioners are that they are not permitted to participate in the process of selection as per the impugned Notification dated 30.12.2017.

6.The learned Government Advocate appearing on behalf of the respondents 1 to 5 made a submission that the Recruitment Notification was issued, pursuant to the rules in force. The Tamil Nadu Municipal Public Health Service Regulations 1970 stipulates qualifications for appointment to the Post of Sanitary Inspector in various Municipalities. The competent authorities issued the Notification by following the said Rules and there is no infirmity as such in the matter of adherence of the rules in force. This apart, pursuant to the earlier directions of this Court, in order to assess the equivalence, a committee was

constituted and the said committee also rejected grant of equivalence in respect of the candidates, who acquired degree from 'WASH Institute' and the relevant portion of the Government Letter dated 04.09.2018 is extracted hereunder:-

"9.It is pertinent to point out that the certificates obtained from recognized institutions are being considered for filling up of the above posts. In the instant case, the Sanitary Inspector certificates conferred to the petitioners by the WASH Institute which is not recognized by the Government. Moreover, the validity of the Post Graduate Diploma in Environmental Sanitation Course of the Madurai Kamaraj University through WASH Institute has been withdrawn by the Madurai Kamaraj University itself, vide their letter Ref.B-1 Bos/Equiv/2017 dated 17.10.2017. Therefore, the Post Graduate Diploma in Environmental Science conferred by the Madurai Kamaraj University through the WASH Institute could not be treated as equivalent to the Sanitary Inspector course recognized by the Government and hence, the petitioners who studied Sanitary Inspector's course in a unrecognized institution can not be considered equivalent to the course recognized by the Government as prayed for by the petitioners and therefore the petitioners are not eligible for the post of Sanitary Inspector in Urban Local Bodies.

10.A meeting was conducted on 23.08.2018 by the Principal Secretary, Municipal Administration and Water Supply Department with the Director of Public Health and Preventive Medicine, Commissioner of Municipal Administration, Commissioner, Greater Chennai Corporation and Director of Town Panchayats. As per the direction of the Hon'ble Court, the matter has been examined in detail. Due to various reasons listed in paras above, it was decided

to follow the rules/norms in force when process of recruitment was initiated.”

7.The learned counsel appearing for the impleaded respondents state that the impleaded respondents are fully qualified and eligible to participate in the process of selection as per the impugned Notification and on account of the interim order granted, the process of selection is unable to be concluded by the competent authorities. Keeping the selection in abeyance any further, would cause irreparable loss to the candidates, who are otherwise qualified and eligible as per the Recruitment Notification dated 30.12.2017. This Court is of the considered opinion that the employer has got an administrative prerogative to prescribe the educational qualifications, eligible criteria and other conditions for the purpose of Recruitment. It is the prerogative of the “State” to prescribe the qualifications and eligibility criteria for recruitment. If at all, such prescription of qualifications or eligibility criteria are unconstitutional or in violation of the Recruitment rules, then alone, the Courts can interfere and not otherwise.

8.Prescription of qualifications as per the rules are to be followed by the competent authorities, while conducting the process of selection. The Recruitment Notification must be in consonance with the Service Rules for the particular post. This being the principles to be followed for Recruitment, this Court has to now consider the provisions of the Tamil Nadu Municipal Public

Health Service Regulations 1970 and the qualifications for the Post of Sanitary Inspector, which reads as follows:-

"Class IV:

Category 1

(a) Must possess a Sanitary Inspector's Certificate granted by the Additional Director of Health Services and Family Planning, Chennai as the Chairman, Board of Examiners, constituted by Government in this behalf; or must possess a Health Inspector's Certificate awarded by the Principal, Medical college, Trivandrum or must possess a Sanitary Inspector's Certificate awarded by the Director of Public Health, Bombay; or Sanitary Inspector Certificate awarded by the Gandhigram Rural Institute; and

(b) Must possess physical fitness for camp life and satisfy the physical standard prescribed for Health Inspectors."

9.The impugned Notification dated 30.12.2017, the qualifications notified are extracted hereunder:-

"Qualification

Must possess B.Sc.,(Chemistry) with a Sanitary Inspector's Certificate granted by

(i) The Additional Director of Health Services and Family Planning, Chennai as the Chairman, Board of Examiners, constituted by Government in this behalf(or)

(ii) must possess a Health Inspector's Certificate awarded by the Principal, Medical College, Trivandrum(or)

(iii) must possess a Sanitary Inspector's Certificate awarded by the Director of Public Health, Bombay(or)

(iv) Sanitary Inspector Certificate awarded by the Gandhigram Rural Institute and Must possess physical fitness for camp life and satisfy the physical standard prescribed for Health Inspectors."

10. Thus, the Recruitment Notification dated 30.12.2017 is in consonance with the provisions of the Tamil Nadu Municipal Public Health Services Regulations, 1970. This apart, the Committee also considered to permit the candidates, who studied in 'WASH Institute' and formed an opinion that they are not eligible as per the Rules and decided to follow the Rules / Norms in force, when process of recruitment was initiated. In other words, the Government arrived a conclusion that as far as the present Recruitment Notification dated 30.12.2017 is concerned, the Rules in force are to be followed for the purpose of completion of the process of selection and to appoint candidates.

11. This being the decision taken by the authorities, this Court is of the considered opinion that the writ petitioners are not eligible as they are not possessing the requisite qualification as prescribed in the impugned Notification dated 30.12.2017. The other grounds raised in respect of equivalence or

eligibility on par with the Degrees granted by the other Institutes are to be considered only at the time of final hearing of the writ petition.

12.This apart, the Post of Sanitary Inspector is of paramount importance. Maintenance of sanitation in Municipalities are undoubtedly a public interest and in the event of keeping these posts vacant for an unspecified period, the same will cause inconvenience for the smooth functioning of the Municipal Administration. Public services can never be paralyzed in a routine manner. The duties and responsibilities attached to the Post of Sanitary Inspector is directly related to the public services and the continuance of interim order, no such circumstances is certainly not preferable. This apart, the writ petitioners are admittedly not qualified as per the Recruitment Notification dated 30.12.2017 as they have not acquired the requisite educational qualifications from the institutions notified in the Recruitment Notification dated 30.12.2017.

13.This being the factum of the case, the respondents are permitted to continue the process of selection, conclude the same and, the other grounds raised in the writ petition, shall be adjudicated during the final hearing of the writ petition.

14.Accordingly, the interim orders granted by this Court in

W.M.P.Nos.1448 & 1449 of 2018 in W.P.No.1162 of 2018 on 19.01.2018, W.M.P.Nos.3009 & 3010 of 2018 in W.P.No.2467 of 2018 on 07.02.2018 and W.M.P.No.32692 of 2018 in W.P.No.28062 of 2018 on 26.10.2018 stand vacated and the Stay Petitions filed in W.M.P.Nos.1448 & 1449 of 2018 in W.P.No.1162 of 2018, W.M.P.Nos.3009 & 3010 of 2018 in W.P.No.2467 of 2018 and W.M.P.No.32692 of 2018 in W.P.No.28062 of 2018 stand dismissed.

15.Thus, the Vacate Stay Petitions filed in W.M.P.No.7255 of 2018 in W.P.No.1162 of 2018, W.M.P.No.8264 of 2018 in W.P.No.2467 of 2018 and W.M.P.No.7635 of 2019 in W.P.No.28062 of 2018 stand allowed.

16.In view of the orders passed in the above Vacate Stay Petitions, the Stay Petitions filed in W.M.P.Nos.30794 & 30899 of 2018 in W.P.Nos.26482 & 26553 of 2018, W.M.P.No.32697 of 2018 in W.P.No.28067 of 2018, W.M.P.Nos.7515 & 7523 of 2019 in W.P.Nos.6704 & 6512 of 2019 and W.M.P.(MD).No.11809 of 2018 in W.P.(MD).No.12923/2018 also stand dismissed. No costs.

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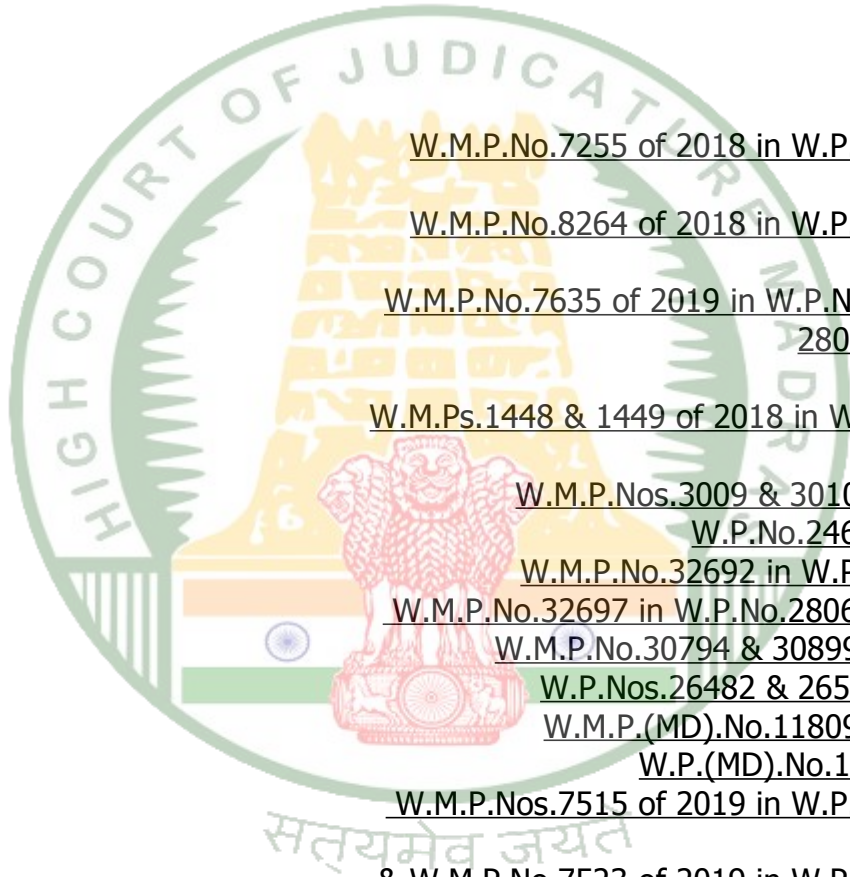
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S.M.SUBRAMANIAM, J.

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