

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.04.2019

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THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12796 of 2018

E.Murugesan

..Petitioner

vs

1.The State of Tamil Nadu,
Rep.by its Principal Secretary to Government
Adi Dravidar & Tribal Welfare Department
Secretariat, Fort St.George,
Chennai - 600 009

2.The Director,
Department of Adi Dravidar & Tribal Welfare,
Chepauk,
Chennai - 600 005

3.The District Collector,
Salem District,
Salem.

4.The District Adi Dravidar & Tribal Welfare Officer,
Salem District,
Salem.

5.The Special Thasildhar(ADW),
Attur Taluk, Salem District.

6.K.Murugan

7.Tmt.P.Muniyammal

8.Tmt.M.Sumathi

9.C.Pandiyaraja

10.P.Kaliyasami

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the Respondents to consider the representation submitted by the Petitioner dated 23.04.2018 for cancellation of appointments to the Post of Cook in Adi Dravidar Welfare Department, Salem District made in pursuant to Notification issued by 3rd Respondent in Na.Ka.No.36263/2011/D4 dated

21.10.2015 as violative of rules and to conduct selection to the post of Cook in the manner known to law and to consider the Petitioner for selection to the Post of Cook within a time frame to be fixed by this Hon'ble Court.

For Petitioner : Mr.G.Sankaran

For Respondents : Mr.R.S.Selvam
Government Advocate for R1 to R5

No appearance for R6 to R10

O R D E R

The relief sought for in the present writ petition is for a direction to direct the respondents to consider the representation submitted by the writ petitioner on 23.04.2018 for cancellation of appointments to the Post of Cook in Adi Dravidar Welfare Department, Salem District made in pursuant to the Notification issued by the 3rd respondent dated 21.10.2015.

2.The writ petitioner states that he passed VIII Standard and belongs to Scheduled Caste Community. The petitioner registered his name in the District Employment Exchange and pursuant to the Notification issued by the 3rd respondent to fill up the Post of Cook, the petitioner made an application.

3.The grievances of the writ petitioner is that the petitioner appeared for the interview on 29.10.2015 and subsequently, his services were also duly verified by the competent authorities. However, he was not selected for appointment to the Post of Cook and the respondents issued orders of appointment at their whims and fancies and in violation of the service rules in force. Thus, the writ petitioner is constrained to move the present writ petition.

4.The grievances of the writ petitioner is that the appointments were made in an illegal manner and without following the Recruitment rules in force. The writ petitioner was deprived of his opportunity to secure public employment in accordance with the rules in force.

5.The learned counsel appearing on behalf of the respondents brought to the notice of this Court that all such appointments made contrary to the Recruitment rules, were cancelled and those candidates, who were appointed, filed batch of writ petitions in W.P.No.1315 of 2018 & etc., batch and this Court upheld the cancellation order in judgment dated 22.02.2019 by passing an order as follows:-

"13. Based on the report of the Vigilance and Anti-corruption Department, all further actions were taken by the competent authorities in a swift manner and those officials are now facing the disciplinary proceedings as well as the other consequential proceedings. As far as the impugned orders in the present writ petitions are concerned, it is contended that opportunities are given to the writ petitioners and even in the impugned order, the respondents have not terminated the service, though the appointments are illegal. As far as the illegal appointments are concerned, no opportunity is required. However, the authorities thought it fit that these petitioners must be provided with an opportunity to represent their cases before the District Adi Dravidar Welfare by way of submitting explanations/objections or by way of personal hearing. The order impugned also states that the writ petitioners shall approach the District Adi Dravidar Welfare Officer, for the purpose of further posting orders. While doing so, the writ petitioners can submit their explanations/objections and explain that their appointments are proper or done otherwise in accordance with law. In the event of submitting any such application, the respondents are bound to consider the same and take appropriate decision and, thereafter, follow the procedures for the purpose of passing further orders.

14. The learned Additional Government Advocate General reiterated that the entire appointments made by the two officials were fraudulent and they had involved in corrupt activities. Those two officials are now prosecuted pursuant to the report of the Vigilance and Anti Corruption Department. The writ petitioners as well as other illegal appointees were colluded with these two officials for the purpose of securing such illegal Public appointments. Thus, the very contention of the writ petitioners that they were appointed by following the procedures contemplated under the Recruitment Rules are far beyond the truth and therefore, there is no infirmity as such in respect of the actions now initiated by the respondents against all such illegal appointments.

15. An enquiry in this regard is in progress and on completion of the enquiry, all further actions would be initiated by the competent authorities against the persons who all are responsible for such illegal appointments. However, the order of appointment issued in favour of these writ petitioners are yet to be cancelled and they have not yet terminated. The impugned order states that the petitioners were relieved from the post and further, they

are directed to approach the District Adi Dravidar Welfare Officer for further postings. Thus, the opportunity provided to these writ petitioners are to be availed by them. That is to say the writ petitioners are bound to submit their explanations/objections, if any, before the competent authority. So that their objections and explanations also shall be considered by the competent authorities for the purpose of taking a decision and for passing final order assigning the reasons.

16. This being the factum, the writ petitioners are at liberty to approach the District Adi Dravidar and Tribal Welfare Officer pursuant to the impugned order and submit their explanations /objections regarding their respective appointments and on receipt those explanations/objections, the District Adi Dravidar and Tribal Welfare Officer is empowered to consider the materials available on record as well as the explanations submitted by the writ petitioners and take a decision and pass speaking order."

6.The learned counsel for the respondents further state that illegal appointments will not be maintained and all suitable actions are taken to nullify all such illegal appointments and the appointments made contrary to the recruitment rules in force. In view of the fact that the claim set out in the present writ petition by the writ petitioner has already been considered and the illegal appointees were relieved from the Post and not working in the Post of Cook, no further consideration is required in respect of the grounds raised in this writ petition.

7.If at all, the writ petitioner is aggrieved from and out of any such appointees in the event of continuing in service, it is left open to him to approach the competent authorities by filing an appropriate complaint with details and any such complaint is filed, the respondents are directed to look into the complaint and pass appropriate orders on merits and in accordance with law.

8.With these observations, the writ petition stands disposed of. However, there shall be no order as to costs.

-sd-

Assistant Registrar

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Sub Assistant Registrar

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To

1.The Principal Secretary to Government
Adi Dravidar & Tribal Welfare Department
Secretariat, Fort St.George,
Chennai - 600 009

2.The Director,
Department of Adi Dravidar & Tribal Welfare,
Chepauk,
Chennai - 600 005

3.The District Collector,
Salem District, Salem.

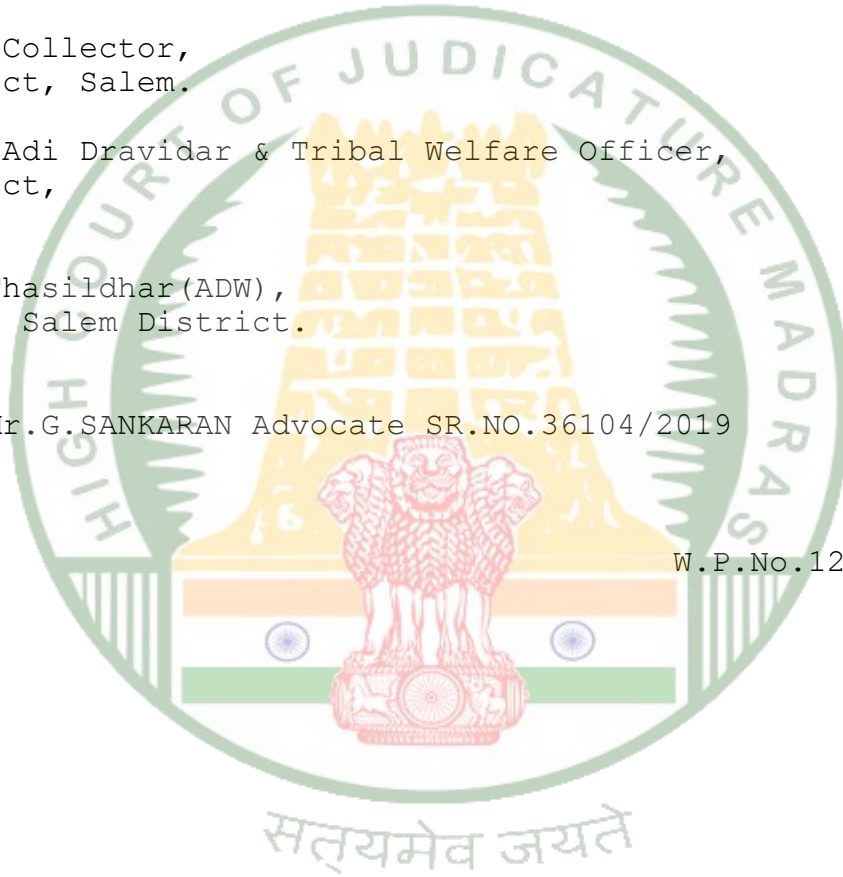
4.The District Adi Dravidar & Tribal Welfare Officer,
Salem District,
Salem.

5.The Special Thasildhar (ADW),
Attur Taluk, Salem District.

+1 CC to Mr.G.SANKARAN Advocate SR.NO.36104/2019

W.P.No.12796 of 2018

SSV(CO)
cm 21/06/2019



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