

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on 06.12.2019	Delivered on 10.12.2019
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CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH
W.P.No.16950 of 2019

J.Jamuna

.. Petitioner

.Vs.

1.The District Collector
Villupuram District,
Villupuram.

2.The Revenue Divisional Officer,
Villupuram District,
Villupuram.

3.The Tahsildar,
Vikravandi Taluk,
Villupuram District.

4.Mohan Guru

... Respondents

PRAYER: Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Declaration, declaring that the appointment of the 4th Respondent as Village Assistant of Thumboor Village pursuant to the Notification of the 3rd Respondent in Ref.No.A5/3875/2018 dated 21/01/2019 as null and void and direct the respondents to select and appoint the petitioner under BC Candidate with priority as Village Assistant in Thumboor Village and grant her all consequential service and monetary benefits.

For Petitioner : Mr.K.Venkatramani,
Senior Counsel
for Mr.M.Muthappan

For R 1 to R 3: Mr.P.S.Sivashanmugasundaram
Special Government Pleader

For R 4 : Mr.S.Vijayakumar

O R D E R

This writ petition has been filed seeking for a relief of declaration to declare the appointment of the 4th respondent as Village Assistant of Thumboor Village, as null and void and to direct the respondents to select and appoint the petitioner.

2.The case of the petitioner is that she is a native of Thumboor Village, Villupuram District, and she is a graduate who belongs to BC community. The petitioner also claims to be a destitute widow and she has got two children and she is taken care by her parents.

3.The 3rd respondent invited applications from candidates for selection and appointment to the post of Village Assistant in 12 Villages of Vikravandi Taluk, and the notification was issued on 21.01.2019. One of the Villages notified was Thumboor Village. As per the notification, the post has to be filled with BC candidate with priority to those who are residing at Thumboor Village, and the nearby Villages which has been specifically mentioned in the notification. The petitioner who is the native of Thumboor Village, and who belongs to BC community and who is also a destitute widow coming under the priority, submitted her application along with all the certificates. The petitioner was called for an interview on 09.02.2019, she appeared and produced all the documents.

4.The 4th respondent had also applied for the very same post. It is the grievance of the petitioner that the 4th respondent does not belong to Thumboor Village or the priority Villages that have been stated in the notification. According to the petitioner, the 4th respondent is a native of Cuddalore District, and the voters list clearly proves the fact that the 4th respondent is residing at Sirugramam, Panruti Taluk, Cuddalore District. It is the further grievance of the petitioner that the mother of the 4th respondent is a Record Clerk working at Vikravandi Taluk Office, Villupuram, and with her influence, the 4th respondent who was not eligible to participate in the selection, was permitted to participate in the selection. Ultimately, the candidature of the petitioner was rejected and the 4th respondent was selected and aggrieved by the same, the present writ petition has been filed.

5.Mr.K.Venkataramani, learned Senior Counsel appearing on behalf of the petitioner submitted that the petitioner had fulfilled all the requirements in the notification, and the 4th respondent who was not residing in the Villages that have been given priority in the notification, has been considered for

selection and on that ground alone his selection is liable to be set aside. The learned Senior Counsel further submitted that even as per the counter affidavit filed by the 4th respondent, he belongs to Thiruvamathur Village of Villupuram District, and assuming that to be true, even then the 4th respondent does not satisfy the requirements in the notification. The learned Senior Counsel submitted that the mother of the 4th respondent is a Record Clerk, working at the Taluk Office, Villupuram, and with her influence, the 4th respondent has managed to participate in the selection and he was illegally selected. The learned Senior Counsel therefore submitted that the selection of the 4th respondent must be declared as illegal, and the petitioner must be considered for selection to the post of Village Assistant.

6. Per contra, Mr. S. Vijayakumar, learned counsel appearing on behalf of the 4th respondent submitted that the 4th respondent belongs to Thiruvamuthur Village, within the same District. The learned counsel placed reliance upon G.O. Ms. No. 375 dated 19.10.2015, and submitted that as per this G.O., the person appointed to the post must belong to the Taluk to which he is appointed, and in the present case, the 4th respondent belongs to Vikravandi Taluk, and therefore, it cannot be stated that the 4th respondent does not satisfy the residential requirement.

7. The learned counsel further submitted that the 4th respondent possessed all the other qualifications, and that apart he has 60% deafness and suffers from hard of hearing and therefore, he also falls within the priority category. The learned counsel submitted that the 4th respondent was appointed on 23.02.2019, and he has been working as a Village Assistant till today. The learned counsel submitted that there are absolutely no grounds to interfere with the appointment of the 4th respondent, and the present writ petition is liable to be dismissed. The 4th respondent has also filed a counter in this writ petition.

8. The 3rd respondent has also filed a counter affidavit and Mr. P. S. Sivashanmugasundaram, learned Special Government Pleader appearing for the respondents 1 to 3, submitted that the writ petitioner did not submit the destitute widow certificate at the time of interview, and therefore she was not considered for selection. That apart, the minimum qualification for the post is fixed as Vth standard pass and the maximum qualification is only Xth standard fail as per Government letter 631, dated 07.11.2018. The petitioner possessed B.A.-B.Ed., degree and she was found to be over qualified and that is one more reason for rejecting the candidature of the petitioner. The 4th respondent

was considered for promotion since he possessed all the qualifications and he belonged to the adjacent village within the same Taluk. The learned counsel submitted that there are no grounds to interfere with the appointment of the 4th respondent at this stage.

9.This Court has carefully considered the submissions made on either side and the materials available on record.

10.The only issue that has to be gone into in this writ petition is as to whether the 4th respondent had satisfied the minimum requirements for being considered for selection and appointment to the post of Village Assistant. The notification dated 21.01.2019, in very categorical terms provided that in order to be considered for appointment as Village Assistant at Thumboor Village, priority will be given only to those belonging to the Villages which has been specifically named in the notification. According to the petitioner, the 4th respondent belongs to Sirugramam, Panruti Taluk, Cuddalore District. In order to substantiate the same, the voter list as on 01.01.2019, has been filed before this Court and the same shows that the 4th respondent belongs to the said Village. However, according to the 4th respondent, he belongs to Thiruvamathur Village of Vikravandi Taluk, Villupuram District. In order to substantiate the same, Adhar card was produced before this Court. There is obviously a dispute with regard to the exact residence of the 4th respondent. However, the 3rd respondent has not bothered to find out the exact residence. Even assuming that the 4th respondent belongs to Thiruvamathur Village, Villupuram Taluk, this Village does not fall within the priority Villages mentioned in the notification dated 21.01.2019.

11.The learned counsel for the 4th respondent submitted that as per G.O.Ms.No.375, dated 19.10.2015, what is relevant is that the person must belong to the same Taluk, to which he is appointed. By relying upon this G.O., the learned counsel wants to justify the selection of the 4th respondent since Thiruvamathur Village, also falls within Vikravandi Taluk.

12.This Court is not able to accept this submission made by the learned counsel for the 4th respondent. The notification specifically names six Villages as priority Villages. If all the Villages falling under the same Taluk can be considered, there is no requirement to name the Villages in the notification and it is enough if the notification says "all Villages in Vikravandi Taluk". That is not the case on hand. The specifications given in the notification must be construed

strictly and some Government Order cannot be brought in to read something more than what is prescribed in the notification. Interestingly, this Thiruvamathur Village, is notified as one of the priority Village for selection to the post of Village Assistant for Iyangarkoil, Panruti Village. This clearly gives an indication that the priority Villages mentioned in the notification must be strictly construed and persons who do not belong to those priority Villages cannot be considered for selection and appointment.

13.The petitioner in this case admittedly belongs to Thumboor Village, for which the notification was made for appointment to the Post of Village Assistant. The petitioner is possessing all the requisite qualifications. The stand taken by the 3rd respondent that the petitioner did not produce the destitute certificate, is not correct since the copy of the destitute certificate issued by the RDO Villupuram, to the petitioner has been produced before this Court. There is no reason why this certificate would not have been produced before the 3rd respondent.

14.The next contention made by the 4th respondent that the petitioner is over qualified, is also not sustainable since the Hon'ble Supreme Court has repeatedly held that the candidature of a person cannot be rejected on the ground of over qualification and if any such rejection is made, the same will be arbitrary and irrational. It will be useful to rely upon the judgments of the Hon'ble Supreme Court in Y. Srinivasa Rao .Vs. J.Veeraiah and Others reported in [1992 3 SCC 63], and in Mohd.Riazul Usman Gani and Others . Vs. District & Sessions Judge, Nagpur and Others, reported in [2000 2 SCC 606], to support this finding.

15.In the considered view of this Court, the 3rd respondent ought not to have entertained the application submitted by the 4th respondent since he did not possess the minimum qualification of residing in the priority Villages that has been specifically mentioned in the notification. The petitioner had all the qualifications to be considered for selection and posting to the post of Village Assistant and unfortunately her candidature has been rejected.

16.In view of the above discussion, this Court has no hesitation to interfere with the appointment that was given in favour of the 4th respondent. In the result, the appointment of the 4th respondent to the post of Village Assistant at Thumboor Village, is declared as illegal and the 3rd respondent is directed to consider the candidature of the petitioner and

appoint her to the said post, if she is otherwise fulfilling all the other requirements.

Accordingly, this writ petition is allowed. No costs.

Sd/-
Asst.Registrar (J)

/true copy/
Sub Asst. Registrar

KP

To

- 1.The District Collector
Villupuram District,
Villupuram.
- 2.The Revenue Divisional Officer,
Villupuram District,
Villupuram.
- 3.The Tahsildar,
Vikravandi Taluk,
Villupuram District.

+1 cc to the Government pleader sr103672
+1 cc to Mr.M.Muthappan Advocate sr103299
+1 cc to Mr.S.Vijayakumar Advocate sr102684

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