

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.10.2019

CORAM:

The Honourable Mr. Justice M.M.SUNDRESH
and
The Honourable Mr. Justice RMT.TEEKAA RAMAN

Writ Petition No.20457 of 2019

R.Radhika

... Petitioner

vs.

1. Government of Puducherry,
represented by Director,
Directorate of Health and Family Welfare Services,
Puducherry - 605 005.
2. The Tahsildar - cum - Executive Magistrate,
(M.Mathew Francis),
Government of Puducherry,
Taluk Office, Oulgaret,
Puducherry - 605 005.
3. M.Mathew Francis
Tahsildar-cum-Executive Magistrate,
Government of Puducherry,
Taluk Office, Oulgaret,
Puducherry - 605 005.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified mandamus, to call for the records bearing No. 687/TOO/A/Certi/2019 Puducherry, dated 25.04.2019 passed by the 2nd Respondent, rejecting the claim for issuance of Nativity/Residence and Community Certificate to the Petitioner and quash the same and consequently direct the 2nd Respondent herein to issue the Nativity/Residence and Community Certificate to the Petitioner herein and for other appropriate orders.

For Petitioner : Mrs.R.Revathy

For Respondents 1&2 : Mr.Stalin Abhimanyu,
Government Advocate (Pondy)

O R D E R

[Order of the court was made by M.M.SUNDRESH,J.]

This Writ Petition has been filed by the Petitioner challenging the order dated 25.04.2019 passed by the 2nd Respondent, by which, Nativity Certificate sought by the Petitioner has been rejected, on the ground that, the Petitioner is not a native of Puducherry.

2. Learned counsel for the Petitioner submitted that the impugned order has certainly got civil consequences, and that, it has been passed based on the Report of the Village Administrative Officer, Thattanchavady, without affording an opportunity to the Petitioner. Hence, according to the learned counsel, the impugned order requires interference. It is the further submission of the learned counsel for the Petitioner that, the 3rd Respondent herein had acted in collusion with a third party, who is next in line to the post, in which the Petitioner is provisionally selected.

3. Learned Government Advocate (Puducherry) appearing for the 1st Respondent submitted that, there is an Appeal remedy available to the Petitioner, and, as the adjudication involves disputed question of fact, the Petitioner will have to be permitted to exhaust the said remedy.

4. We find force in the submissions of the learned counsel for the Petitioner. Admittedly, the impugned order has got civil consequences and the Petitioner is now suited for being appointed to the post of Staff Nurse (now re-designated as Nursing Officer), to which, she is provisionally selected. In the impugned order, reliance has been made on the Report of the Village Administrative Officer, Thattanchavady, based on which, the Petitioner ought to have been given a copy of the said Report. Hence, we are of the view that mere existence of the alternative remedy would not be a bar, when the principles of natural justice have been violated.

5. In such view of the matter, the impugned order dated 25.04.2019 passed by the 2nd Respondent/Tahsildar-cum-Executive Magistrate, Oulgaret, Puducherry, is set aside. The 2nd Respondent is directed to issue copy of the Report of the Village Administrative Officer, Thattanchavady, to the Petitioner, within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the Petitioner shall be asked to give her reply within a period of two weeks and on receipt of the same, final order shall be passed by the

2nd Respondent, after four weeks, on merits and in accordance with law.

6. We also record the fact that the 2nd Respondent herein, who passed the impugned order is no longer in the said post, and hence, the question of bias does not arise. As the Petitioner has obtained an interim order of status quo on 10.04.2019, this Court directs the 1st Respondent/Director, Government of Puducherry, to restrain from cancelling the Petitioner's provisional selection for the post of Staff Nurse (now re-designated as Nursing Officer) for non-production of Nativity/Residence and Community Certificate and to keep one post of Staff Nurse (re-designated as Nursing Officer) vacant, till final orders are passed on merits and in accordance with law.

This Writ Petition is allowed with the above directions. No costs. Consequently, connected W.M.P.Nos.19758 to 19760 of 2019 are closed.

Sd/-

Assistant Registrar(Insp cell)

//True Copy//

Sub Assistant Registrar

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To:

1.The Director,
Directorate of Health and Family Welfare Services,
Government of Puducherry,
Puducherry - 605 005.

2.The Tahsildar - cum - Executive Magistrate,
Government of Puducherry,
Taluk Office, Oulgaret,
Puducherry - 605 005.

+lcc to Mrs.R.Revathy, Advocate SR.86854

+lcc to Office of the Public Prosecutor, Puducherry, SR.87473

W.P.No.20457 of 2019

RP(CO)
CB(04/12/2019)