



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.07.2019

CORAM:

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.(MD) No.10078 of 2013

WEB COPY

M.A.Mariyappan

... Petitioner

-Vs-

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Food Safety,
Tamil Nadu Food Safety &
Drug Administration Department,
No.359, Anna Salai, Chennai-06.

3.Food Safety and Standards Authority of India,
Represented by its Chairman,
Ministry of Health and Family Welfare,
3rd Floor, FDA Bhawan, Kotla Road,
New Delhi-110002.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Mandamus, forbearing the second respondent from appointing / promoting any person as Designated Officer under the Food Safety and Standards Act, 2006 without considering the petitioner (Food Inspector / Food Safety Officer) for the post of Designated Officer in terms of Section 36 and Rule 2.1.2 of the Food Safety and Standards Act, 2006 and the Food Safety and Standards Rules, 2011.

For Petitioner	: Mr.T.Lajapathi Roy
For R1 and R2	: Mr.K.Mu.Muthu, Additional Government Pleader.
For R3	: No Appearance

ORDER

The relief sought for in the present Writ Petition is to forbear the second respondent from appointing / promoting any person as Designated Officer under the Food Safety and Standards Act, 2006 without considering the petitioner (Food Inspector / Food Safety Officer) for the post of Designated Officer in terms of Section 36 and Rule 2.1.2 of the Food Safety and Standards Act, 2006 and the Food Safety and Standards Rules, 2011 (hereinafter referred to as 'the Act and Rules').



2.The learned counsel appearing on behalf of the writ petitioner states that the writ petitioner is fully qualified for appointment to the post of Designated Officer with reference to the provisions of the Act and Rules. The writ petitioner was initially appointed as Leprosy Inspector and subsequently, redesignated as Health Inspector. Now, he is working in the Department of Public Health and Preventive Medicine.

3.The learned counsel appearing on behalf of the writ petitioner states that qualified employees working in the rank of Health Inspector in the Public Health Department are absorbed as Food Safety Officer and Designated Officer with reference to the provisions of the Act and Rules. Thus, the case of the writ petitioner is to be considered with reference to the Act and Rules.

4.The learned Additional Government Pleader appearing on behalf of the respondents 1 and 2 states that the writ petitioner is not at all qualified for appointment to the post of Designated Officer with reference to Rule 2.1.3.1 of the Food Safety and Standard Rules, 2011. Thus, the case of the writ petitioner cannot be considered.

5.However, this Court is of the considered opinion that the post of Designated Officer should be filled up from amongst the eligible qualified persons in accordance with the provisions of Section 36 of the Act as well as the provisions of the Rules. In this regard, it is made clear that the post of Designated Officer must be filled up strictly in accordance with the provisions of the Act as well as the Rules. The case of the writ petitioner also shall be considered along with all other eligible candidates and accordingly, suitable and qualified persons can be selected and appointed, whenever an administrative decision is taken to fill up the post of Designated Officer.

6.With these clarifications, this Writ Petition stands disposed of. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Principal Secretary,
State of Tamil Nadu,
Health and Family Welfare Department,
Fort St. George, Chennai-600 009.

2.The Commissioner of Food Safety,
Tamil Nadu Food Safety &
Drug Administration Department,
No.359, Anna Salai, Chennai-06.

+1 CC to SPL GP SR-79258.

+1 CC to Mr.T.LAJAPATHI ROY, Advocate SR-79083.

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31.07.2019

(1/2)

CS (13.08.2019) 3P 5C