



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Monday, the Twenty Ninth day of July Two Thousand Nineteen

PRESENT

The Hon`ble Mr.Justice M.SATHYANARAYANAN
and
The Hon`ble Mr Justice B.PUGALENDHI

W.M.P. (MD) No.2104 of 2019
in

W.M.P. (MD) No.1772 of 2019
in

W.P. (MD) No.2222 of 2019

- 1.THE REGISTRAR OF CO-OPERATIVE SOCIETIES,
NO.170, N.V.NATARAJAN MALLIGAI,
PERIYAR EVR HIGH ROAD,
KILPAUK, CHENNAI-600 010.
- 2.THE CHAIRMAN / JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
DISTRICT RECRUITMENT BUREAU,
GOVERNMENT MULTI STORIED BUILDING,
2ND FLOOR, GAJAMALAI, TRICHY.
- 3.THE REGIONAL JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES,
TIRUCHIRAPPALLIREGION,
GOVERNMENT MULTI STORIED BUILDING,
2ND FLOOR, GAJAMALAI, TRICHY. ... PETITIONERS/ RESPONDENTS/
RESPONDENTS

Vs

K.ATHIYAPPAN

... RESPONDENT/PETITIONER/
PETITIONER

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court will be pleased to vacate the order of interim Injunction dated 01/02/2019 made in WMP(MD) No.1772 of 2019 in WP(MD) No.2222 of 2019.

Prayer in WMP(MD) . 1772/ 2019 :

To pass an interim injunction restraining the 2nd respondent from issuing list of selected candidates in pursuance of the recruitment notification for the post of Salesperson and Packers issued vide Advertisement No. 1/2017 dated 25.11.2017 till the entire Vth Phase of election process is completed by the 1st respondent and pass such other appropriate orders as this Honourable court may deem fit.

**Prayer in WP(MD) . 2222/ 2019 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court forbearing the 2nd respondent from proceeding with the recruitment process in pursuance of the recruitment notification issued vide Advertisement No. 1/2017 dated 25.11.2017 and consequently directing the respondents to initiate fresh recruitment process after issuing proper recruitment notification and following the due process of law.

ORDER : This petition coming on for orders upon perusing the petition and the affidavit filed in support thereof and upon hearing the arguments of Mr.A.K.BASKARA PANDIAN, Special Government Pleader for the petitioners and of Mr.D.SHANMUGARAJASETHUPATHI, Advocate for Mr.D.SENTHIL, Advocate on behalf of the Respondent, the court made the following order:-

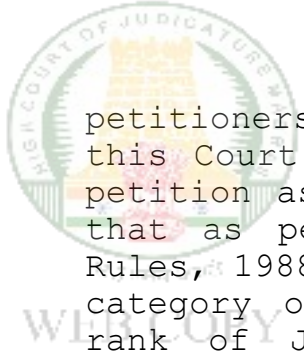
(Order of this Court was made by **M.SATHYANARAYANAN, J**)

The first respondent in this miscellaneous petition has filed the writ petition assailing the recruitment process to the posts of salesmen and packers in various Co-operative Societies in Trichirappalli District and challenging the recruitment notification made in advertisement No.1/2017, dated 25.11.2017 and with consequential direction directing the respondents to initiate fresh recruitment process, after issuing proper notification and also following the due process of law.

2. The writ petitioner, who claims to be a Public Interest Litigant, would aver among other things that there is no transparency in the recruitment process of salesmen and packers and the concerned officials are dancing to the tune of politicians and though the interview was completed in the month of January 2018 itself, the second respondent is yet to issue the list of selected candidates and further pointed out that even for selection of President and members of various co-operative societies, large number of illegalities have been noted and that is why, this Court had appointed a panel of former Judge of this Court to go into the said aspect.

3. The learned Counsel appearing for the writ petitioner would submit that the selection is being done purely on the basis of the interview, by calling for candidates through open market as well as Employment Exchange and due to political pressure and extraneous consideration, the selection of salesmen and packers have been done and unless and until fair and transparent process is ensured, further process in pursuant to the selection of candidates so done, cannot go on and therefore, prays for continuance of interim order granted by this Court.

4. Mr.A.K.Baskara Pandian, learned Special Government Pleader, appearing for the official respondents in the writ petition and the



petitioners in W.M.P.(MD)No.2104 of 2019, has drawn the attention of this Court to the affidavit filed in support of this miscellaneous petition as well as to the typed set of documents and would submit that as per Rule 151(4)(a)(ii) of the Tamil Nadu Co-operative Rules, 1988, "In the case of recruitment of paid servants below the category of Junior Assistant including technical posts below the rank of Junior Assistant, such as Driver, Wireman, Carpenter, Fitter, Welder, Binder, Mechanic, Helper and such other Tradesmen and Salesman and Packer, the District Recruitment Bureau shall recruit candidates by holding interview only" and in order to ensure free and transparent proceedings for such recruitment, advertisements have been issued in news daily, calling for candidates from open market and that apart, list of eligible candidates had also been obtained from jurisdictional Employment Exchange.

5. The learned Special Government Pleader has also drawn the attention of this Court to the Circular dated 06.01.2017, in Na.Ka.1478/2017/Sapa2, issued by the Registrar of Co-operative Societies, Chennai - 600 010 addressed to the Additional Registrar, Chennai Zone as well as the Joint Registrar of all Zones, prescribing the methods of recruitments for State wise and District wise recruitments and on instructions, would submit that the said circular has been implemented in letter and spirit without any deviation in respect of the present recruitment process. It is further submitted by the learned Special Government Pleader that the writ petitioner, excepting the bald and unsubstantiated allegations, have failed to produce any tenable materials in support of his allegations and on account of interim orders are in subsistence, the function of Co-operative Societies, which deal with distribution of essential commodities is almost come to stand idle and hence, prays for vacating the interim order.

6. This Court paid its anxious and best attention to the rival submission and perused the materials placed before this Court.

7. The above cited Rule would permit the recruitment of the candidates by holding interview only, in respect of certain technical posts, the details of which extracted even in the said Rule itself.

8. Admittedly, the recruitment is for the posts of salesmen and packers, fall below the rank of Junior Assistant cadre and therefore, the official respondents are justified in conducting the oral interview / viva voce, in respect of eligible candidates. The evaluation sheets for salesmen and packers have also been produced.

9. Clause 24 of the above said circular, dated 06.01.2017, stipulates that in each selection panel, the Co-operative Joint Sub Registrar should be there and that apart, a subject expert should form part of the interview panel and the said expert can also be in the other department and the panel should be headed by the Joint



Registrar. A perusal of the evaluation sheets produced before this Court would reveal that the Chairman of the interview board was in the cadre of Co-operative Society Sub Registrar and two members had also participated and awarded the marks.

10. Though the writ petitioner in the affidavit filed in support of the writ petition would aver that due to political influences and other consideration, fair and transparent procedure have not been followed, have failed to produce substantial materials in support of the said averment. As already pointed out, the Rule permits the holding of the personal interview in respect of certain posts, which fall within the Junior Assistant cadre and therefore, it is justified on the part of the official respondents to conduct personal interview for the posts of salesmen and packers.

11. The writ petitioner did not make challenge to Rule 151(4) (a) (ii) of the Tamil Nadu Co-operative Rules, 1988.

12. This Court, while entertained the writ petition, has granted the order of interim injunction, vide order dated 01.02.2019 and it is in subsistence, for nearly seven months.

13. This Court is also having doubt as to the maintainability of the writ petition, for the reason that the Public Interest Litigation pertains to the recruitment process and admittedly, the petitioner is not one of the candidates, who took part in the selection process.

14. In the light of the reasons assigned above, this Court is of the considered view that the balance of convenience as on today is in favour of the petitioners / official respondents in the miscellaneous petition and on account of the interim orders are in operation, further selection process could not go on.

15. However, this Court, taking into the consideration the apprehension expressed by the petitioners/official respondents, is inclined to modify the interim order as follows:

"The entire selection process and appointment of selected candidates is subject to the result of the writ petition."

W.P.(MD)No.1772 of 2019 and W.P.(MD)No.2104 of 2019 are disposed of accordingly.

16. The learned Special Government Pleader, on instructions, would submit that the affidavit filed in support of this vacate stay petition as well as typed set of documents are to be treated as counter affidavit and typed set of documents in the main writ petition itself.

<https://hcservices.courts.gov.in/hcservices/> 17. The said submission, on instructions, is placed on record.



18. The Registry is directed to post the main writ petition for final disposal on **25.09.2019**.

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sd/-
29/07/2019

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

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- +1. C.C. to SPECIAL GOVERNMENT PLEADER SR.No.12611
+1. C.C. to Mr.D.SENTHIL Advocate SR.No.12496

ORDER
IN
W.M.P. (MD) No.2104 of 2019
in
W.M.P. (MD) No.1772 of 2019
in
W.P. (MD) No.2222 of 2019
Date : 29/07/2019

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TK/VR/SAR.1/02.08.2019/5P/6C