



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM  
and  
THE HONOURABLE MRS.JUSTICE R.THARANI

W.A. (MD)No.1061 of 2019  
and  
C.M.P. (MD)No. 9711 of 2019

The Registrar (Administration),  
Madurai Bench of Madras High Court,  
Madurai.

: Appellant/Respondent No.5

Vs.

1.Vetrivel : 1<sup>st</sup> Respondent/Petitioner

2.The District Collector -cum-  
Inspector of Panchayat,  
Kanyakumari District,  
Nagercoil.

3.The Assistant Director of Panchayats,  
Office of the District Collector,  
Nagercoil.

4.The Block Development Officer,  
Thuckalay, Kozhiporevilai,  
Muzhagumoodu Post,  
Kanyakumari District.

5.The President,  
Nullivilai Panchayat,  
Kandanvilai Post,  
Kanyakumari District.

: Respondents Nos.2 to 5/  
Respondents Nos.1 to 4

**PRAYER:** Writ Appeal is filed under Clause 15 of the Letter Patent Act, to set aside the order passed in W.P.(MD)No.16250 of 2012 dated 13.06.2019 and allow the said writ appeal.

**Prayer in WP(MD). 16250/ 2012 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus call for the records of the 4th respondent proceedings in No.2/2012 dated 25.12.2011 and quash the same and



consequently direct the 4th respondent herein to permit the petitioner to discharge his duties as Part Time over Head Tank Operator in the 4th respondent Panchayat.

|               |                                                        |
|---------------|--------------------------------------------------------|
| For Appellant | : Mr.D.Sivaraman                                       |
| For R1        | : Mr.D.Srinivasa Raghavan                              |
| For R2 and R3 | : Mr.A.K.Baskara Pandian<br>Special Government Pleader |
| For R4        | : Mr.D.Muruganantham<br>Additional Government Pleader  |

**JUDGMENT**

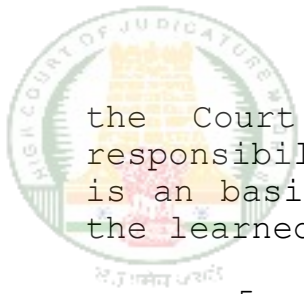
[Judgment of this Court was made by **T.S.SIVAGNANAM, J.**]

Heard Mr.D.Sivaraman, learned counsel for the appellant, Mr.D.Srinivasa Raghavan, learned counsel for the first respondent, Mr.A.K.Baskara Pandian, learned Special Government Pleader for the second and third respondents and Mr.D.Muruganantham, learned Additional Government Pleader for the fourth respondent. By consent on either side, this writ appeal is taken up for final disposal.

2. This appeal by the High Court is directed against the order dated 13.06.2019 passed in W.P.(MD)No.16250 of 2012.

3. The said writ petition was filed by the first respondent herein challenging the order passed by the fourth respondent Panchayat, dated 25.12.2011 and for consequential direction to permit him to discharge duties as Part Time Over Head Tank Operator in the fourth respondent Panchayat. The said writ petition was disposed of by separate order dated 13.06.2019. It appears that when the said writ petition was heard on 04.06.2019, there was power failure for about seven minutes. The learned Writ Court was put to inconvenience because there was no emergency lamp available in the Court room. It resulted in the Registrar Administration of Madurai Bench of Madras High Court to be *suo motu* impleaded as fifth respondent in the writ petition and certain queries were raised by the Court largely touching upon the administration of the Institution.

4. The queries were raised by the learned Writ Court on the *prima facie* view that there has been negligence; the employees of the High Court are not discharging their duties effectively; the genuinity of the educational qualifications of the employees and proof of age submitted by Class-IV cadre employees are not properly verified; there is supervisory lapse in maintaining cleanliness and there are certain omission and commission in performing the duties and responsibilities of the employees. The learned Writ Court also wanted to ascertain as to whether there is any secret enquiry conducted by the Vigilance Department to identify the lapses, negligence, dereliction of duty and corrupt activities. Further,



the Court observed that rationalization of allotment of job responsibilities are to be done by conducting man power audit, which is an basic administrative principle. After raising these queries the learned Writ Court proceeded to pass the impugned order.

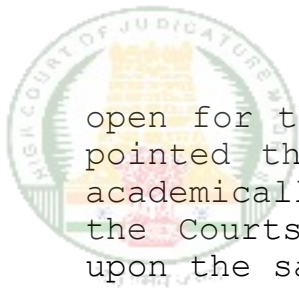
5. We find from the impugned order that there are observations largely touching upon internal administration of this Institution. We find that query Nos.1 to 5 raised by the learned writ Court were solely due to the non availability of emergency light in the Court hall on 04.06.2019. Query Nos.6 to 10 do not concern that and they revolve on various other issues, which was not the *lis* before the Court. In fact, queries directly touch upon administrative affairs of the High Court.

6. The learned Writ Court appears to have been satisfied with the report filed by the Registry with regard to non-availability of emergency lamps. With regard to the verification of genuinity of the educational qualification, age limit, community certificate etc., from the materials placed before us, we note that a separate Recruitment Cell has been constituted pursuant to the direction issued by the Hon'ble Supreme Court, which takes care of all recruitments.

7. Pursuant to further direction issued by the Hon'ble Supreme Court, with a view to implement the resolutions passed in the Hon'ble Chief Justice and Hon'ble Chief Minister's Conference, a Centralized Recruitment Process has been adopted. Recruitment Cell headed by a Registrar in the cadre of District Judge has been constituted and very recently the Government has sanctioned more than 100 posts for Recruitment Cell. Before making appointments to any post, verification of the credentials of the candidates is being done and the entire recruitment process is closely monitored by a Recruitment Committee, consisting of Hon'ble Judges of this Court as nominated by the Hon'ble Chief Justice.

8. The Vigilance Cell of the High Court has a robust mechanism and stated to be one of the best in the country headed by a Registrar in the cadre of District Judge and none has jurisdiction to access to material, which is held by the Vigilance Cell without prior approval of the Hon'ble Chief Justice.

9. Reliance has been placed on the decision of the Hon'ble Division Bench of this Court in the case of ***State rep by the Secretary to Government, Hindu Religious and Charitable Endowments Department, Fort St. George, Chennai-9 Vs. Rasu and others*** [(2016) 4 MLJ 257]. In the said appeal, the question was whether a writ Court was justified in issuing direction for prescribing dress code for devotees worshiping in temples, when such was not an issue either directly or indirectly in the writ petition. It was pointed out that in the absence of any real *lis* before the Court, it is not



open for the Court to tread into a non-territory. Further, it was pointed out that the Court was not expected to adjudicate any matter academically in the absence of any real *lis* between the parties and the Courts are not entitled to create controversy and adjudicate upon the same.

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10. We are conscious of the fact that every one of us, Judges and lawyers are deeply interested in the welfare of the Institution to function in an excellent manner. Nevertheless there is a self imposed restriction, to which we can exercise our jurisdiction in such matters. The Hon'ble Chief Justice is the Administrative Head of the Institution. Therefore, any direction or observation issued by any Court cannot impinge upon to exercise jurisdiction of the Hon'ble Chief Justice. The procedure adopted in the recruitment process has been clearly set out by the appellant and we are fully satisfied with the robust mechanism in place. It is true that there is room for improvement on all issues, that may not be a sole reason to hold that the present procedure is not effective.

10. Thus we find that the direction issued by the learned Writ Court in the impugned order was clearly outside the scope of the writ petition and the direction also makes inroads into the administrative process adopted by the High Court headed by the Hon'ble Chief Justice, who is the administrative head of the Institution. Further more, we are aware that the emergency lamps have been provided for the Court halls and the chambers for the judges and for the Registrars and they are all effectively functioning. Power failure may be due to several causes. Therefore, we are of the view that the issue need not be precipitated to the extent indicated in the order passed in the writ petition. Thus for the above reasons, this writ appeal is allowed and the order and directions issued by the writ Court are set aside. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (C.O)

// True Copy //

Sub Assistant Registrar(CS )

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Copy to: The Registrar (Administration),  
Madurai Bench of Madras High Court,  
Madurai.

+1 CC to M/s.D.SIVARAMAN SR-93998.

**ORDER MADE IN**  
**W.A. (MD)No.1061 of 2019**  
**23.10.2019**

CS (07.11.2019) 5P 7C