



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.12.2019

CORAM

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

**W.P (MD)No.18287 of 2015**  
**and**  
**M.P (MD)Nos.1 and 2 of 2015**

S.Selvam .. Petitioner

Vs.

1.The Principal Secretary to Government,  
Municipal Administration and Water  
Supply Department,  
Secretariat, Fort St. George,  
Chennai - 600 009.

2.The Director of Town Panchayats,  
Kuralagam, Chennai - 600 108.

3.The District Collector,  
Thanjavur District, Thanjavur.

4.The Executive Officer,  
Pabanasam Town Panchayat,  
Pabanasam, Thanjavur District.

5.M.Monimozhian,  
Executive Officer,  
Pabanasam Town Panchayat,  
Pabanasam, Thanjavur District.

6.T.Manikandan .. Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings of the 4<sup>th</sup> respondent R.O.C.No.77/2014/A1, dated 24.08.2015 and quash the same and consequently direct the respondent to appoint the petitioner to the post of Sweeper in the office of the 4<sup>th</sup> respondent herein and pass such further or other orders.

For Petitioner : Mr.C.Jegannathan



For Respondents 1 to 3 : Mr.P.Kannidevan,  
Additional Government Pleader.

For Respondent No.4 : Mr.S.Dhayalan,  
Government Advocate.

WEB COPY For Respondent No.6 : Mr.V.Chandrasekar

For Respondent No.5 : No appearance

**ORDER**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus calling for the entire records relating to the impugned proceedings of the 4<sup>th</sup> respondent in R.O.C.No.77/2014/A1, dated 24.08.2015 and quash the same and consequently direct the respondents 1 to 4 to appoint the petitioner to the post of Sweeper in the office of the 4<sup>th</sup> respondent.

2.The case of the petitioner is that he studied upto VIII Standard and registered his educational qualification with District Employment Exchange, Thanjavur. On the request from the 4<sup>th</sup> respondent, the District Employment Officer, Thanjavur sponsored five candidates including the petitioner, for filling up of one post of Sweeper under Open Competition - General Priority. The interview was postponed two times for various reasons and on 17.08.2015, the petitioner attended the interview and he also expressed his willingness to do the sweeper work. But, the 4<sup>th</sup> respondent, vide impugned order, dated 24.08.2015, selected the 6<sup>th</sup> respondent, who is already working in the office of the 4<sup>th</sup> respondent as computer operator, which is a higher post than sweeper. The 6<sup>th</sup> respondent also applied for the said post based on the advertisement published in 'Makkal Kural' Newspaper. Against the order passed by the 4<sup>th</sup> respondent, the present writ petition has been filed.

3.The learned counsel for the petitioner submitted that the 4<sup>th</sup> respondent did not publish the advertisement in two newspapers and that too published the advertisement in 'Makkal Kural', which is not at all largely circulated in that area. Thus, he prayed to set aside the impugned order. He would also rely upon the Judgment of the Hon'ble Supreme Court in **State of Orissa and Another v. Mamata Mohanty** reported in **(2011)3 Supreme Court Cases 436**.

4.The learned Additional Government Pleader appearing for the respondents 1 to 3 submitted that as per norms, the 4<sup>th</sup> respondent requested the District Employment Officer, Thanjavur to sponsor suitable candidates for the post of Sweeper, upon which, the District Employment Officer sponsored five candidates including the petitioner herein. Apart from that, the 4<sup>th</sup> respondent issued advertisement in Makkal Kural, upon which, the 6<sup>th</sup> respondent



applied. The interview was postponed two times due to administrative reasons. When the interview was held on 05.08.2015, only three candidates including the petitioner and 6<sup>th</sup> respondent attended the interview and the appointment committee of the 4<sup>th</sup> respondent, by its Resolution No.6, dated 19.08.2015, resolved to appoint the 6<sup>th</sup> respondent and accordingly, the 4<sup>th</sup> respondent passed the impugned order. There is no infirmity in the selection process. Thus, he prayed to dismiss the writ petition.

5.The learned Government Advocate appearing for the 4<sup>th</sup> respondent would submit that the entire selection process was done with utmost care and caution.

6.Heard the learned counsel appearing for the petitioner, learned Additional Government Pleader appearing for the respondents 1 to 3, learned Government Advocate appearing for the 4<sup>th</sup> respondent and the learned counsel appearing for the 5<sup>th</sup> respondent and perused the materials available on record.

7.It is not in dispute that the 6<sup>th</sup> respondent applied for the post of sweeper based on the advertisement published in Makkal Kural daily. The petitioner's name was sponsored by the District Employment Exchange along with four others. Call letter was sent to six persons and interview was conducted on 05.08.2015, in which, the petitioner, 6<sup>th</sup> respondent and another person were participated. The appointment committee of the 4<sup>th</sup> respondent, by its Resolution No.6, dated 19.08.2015, resolved to appoint the 6<sup>th</sup> respondent as Sweeper. In **State of Orissa and Another v. Mamata Mohanty** reported in **(2011)3 Supreme Court Cases 436**, the Hon'ble Apex Court has held as follows:

"35.At one time this Court had been of the view that calling the names from Employment Exchange would curb to certain extent the menace of nepotism and corruption in public employment. But, later on, came to the conclusion that some appropriate method consistent with the requirements of Article 16 should be followed. In other words there must be a notice published in the appropriate manner calling for applications and all those who apply in response thereto should be considered fairly. Even if the names of candidates are requisitioned from Employment Exchange, in addition thereto it is mandatory on the part of the employer to invite applications from all eligible candidates from the open market by advertising the vacancies in newspapers having wide circulation or by announcement in Radio and Television as merely calling the names from the Employment Exchange does not meet the requirement of the said Article of the Constitution".

Here, in the present case, advertisement was published in Makkal Kural daily and the 6<sup>th</sup> respondent applied for the post based on the



advertisement and participated in the interview and he has been selected by the Appointment Committee. The petitioner has also participated in the interview. Therefore, the appointment of 6<sup>th</sup> respondent cannot be considered as illegal and the same requires no interference at the hands of this Court. Accordingly, the writ petition is dismissed. No costs. Consequently, connected Miscellaneous Petitions are dismissed.

Sd/-

Assistant Registrar (AS)

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/ /2020

Sub Assistant Registrar(CS)

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To

1.The Principal Secretary to Government,  
Municipal Administration and Water  
Supply Department,  
Secretariat, Fort St. George,  
Chennai - 600 009.

2.The Director of Town Panchayats,  
Kuralagam, Chennai - 600 108.

3.The District Collector,  
Thanjavur District, Thanjavur.

4.The Executive Officer,  
Pabanasam Town Panchayat,  
Pabanasam, Thanjavur District.

+1 CC to M/s.SPL.GP ( SR-105315[F] dated 17/12/2019 ) ( SR-105318[F] dated 17/12/2019 )

+1 CC to M/s.VEERA ASSOCIATES, Advocate ( SR-105381[F] dated 17/12/2019 )

+1 CC to M/s.V.CHANDRASEKAR, Advocate ( SR-105429[F] dated 17/12/2019 )

**W.P (MD) No.18287 of 2015**  
**16.12.2019**

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