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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2019

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THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P[MD]No.3481 of 2011

and

M.P.[MD]No.2 of 2011

S.Raja

: Petitioner

Vs.

1.The Regional Director of Municipal Administration,
Arignar Anna Maligai,
Tallakulam, Madurai - 2.

2.The Sanitary Inspector,
Gudalur Municipality,
Theni District.

3.The Executive Engineer,
Gudalur Municipality,
Theni District.

4.G.Anandhi

: Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned appointment order issued by the third respondent in his proceedings in Na.Ka.No.275/07 dated 25.02.2011 in favour of the fourth respondent and quash the same as illegal and consequentially to direct the respondents to consider the petitioner for appointment to the post of Sanitary Worker taking into account of the petitioner seniority.

For Petitioner

: Mr.H.Mohamed Imran
for M/s.Ajmal Associates

For Respondents 1 & 2

: Mr.S.Dhayalan,
Government Advocate

For Respondent No.3

: Mr.T.S.Mohammed Mohideen
Standing Counsel

For Respondent No.4

: No appearance

**ORDER**

The order of appointment of the fourth respondent appointing him as Sanitary worker is under challenge in the present writ petition.

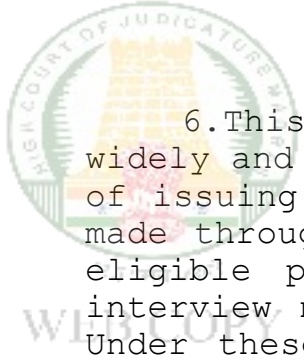
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2.The grievances of the writ petitioner is that his name was sponsored through Employment Exchange for appointment to the post of Sanitary worker in Keezhagudalur, Theni District. The petitioner participated in the process of interview. However, the fourth respondent who was sponsored in Sl.No.4 of the employment list was selected without any proper assessment and on extraneous consideration.

3.The learned Counsel for the petitioner states that the entire selection ended with an order of favouritism in favour of the fourth respondent and the valuation was not done in accordance with the procedures contemplated under the Rules and the appointment of the fourth respondent is liable to be set aside.

4.Learned Counsel appearing on behalf of the Gudalur Municipality objected the contentions of the learned Counsel for the petitioner by stating that five persons participated in the process of interview. Undoubtedly, the name of the writ petitioner was in Sl.No.1 in the list of sponsored candidates. The name of the fourth respondent was sponsored in Sl.No.4. However, both the writ petitioner as well as the fourth respondent belong to Scheduled Caste community. Both the candidates were of the same age group and therefore, the authorities competent assessed the merits of the candidates and appointed the fourth respondent to the post of Sanitary Worker.

5.This Court is of the considered opinion that though the merit assessment has not been properly explained by the respondent, this Court, at this length of time is not inclined to go into the merit assessment made by the competent authority. However, it is made clear that all future appointments even for the post of Sanitary Workers should be done strictly in accordance with the recruitment Rules and the interview marks should not exceed 15% of the total marks awarded as per the Supreme Court judgment. Even for such posts, written examinations are now contemplated and therefore, all appointments are to be made strictly in accordance with the Rules in force, by providing equal opportunity to all the eligible candidates who all are aspiring to get Government job. Some general questions can be asked by way of written examination for the purpose of assessing the minimum knowledge acquired by the candidate for appointment. However, such examination will provide transparency and will satisfy the constitutional requirement. In the event of no examination and no proper assessment, the same will pave way for



6.This apart, the recruitment notification must be issued widely and a open competition process must be undertaken at the time of issuing such notification. At the outset, the appointments are made through open method and by inviting applications from all the eligible persons and by conducting written examinations and the interview marks are to be awarded 15% of the total marks of 100. Under these circumstances, such procedures are to be followed for the purpose of providing equal opportunity of public employment to all the candidates who all are longing to get appointment in public services.

7.In the event of allowing the authorities to appoint candidates without any such written examination, the same will result in denial of opportunity and further may provide way for corrupt activities also. Thus, the authorities should not be permitted to select and appoint candidates without conducting written examinations as well as merit assessment. All such procedures are to be strictly followed in order to ensure that the appointments are made under the constitutional schemes so as to create a motive in the minds of the people that the public appointments are made in accordance with law. With these directions, the relief sought for in this Writ Petition is rejected and all such future appointments are to be made strictly in accordance with the established principles and constitutional schemes by the respondents.

8.The Writ Petition stands disposed of, accordingly. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

/ True Copy /

Sub Assistant Registrar(CS-)

MR

To

1.The Regional Director of Municipal Administration,
Arignar Anna Maligai, Tallakulam, Madurai - 2.

2.The Sanitary Inspector, Gudalur Municipality, Theni District.

3.The Executive Engineer, Gudalur Municipality, Theni District.

+1CC to Mr.T.S.MOHAMED MOHIDHEEN,Advocate(SR-67362,dated 07/06/2019)

+1 CC to M/s.SPL GP (SR-67614, dated 10/06/2019)

+1 CC to M/s.AJMAL ASSOCIATES,Advocate(SR-67929, dated 11/06/2019)