

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.07.2020

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P.No.9844 of 2020

and

W.M.P.No.11962 of 2020

S.Rajendiran

... Petitioner

vs.

1. The Chief Secretary to Government,
Government of Puducherry,
Chief Secretariat,
Puducherry - 605 001.
2. The Secretary to Government (Welfare),
Government of Puducherry,
Puducherry - 605 001.
3. The Director,
Department of Women and Child Development,
Housing Board Complex,
(Opp. to LIC), New Saram,
Puducherry - 605 013.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a writ of Mandamus directing the 1st respondent to consider the petitioner's representation dated 01.06.2020 for the post of Chairperson in the Union Territory of Puducherry Commission for Protection of Child Rights, Puducherry.

For Petitioner : Mr.M.Gnanasekar

For Respondents : Mr.Stalin Abhimanyu,
Government Advocate (Pondy)

O R D E R

Petitioner has come up with this Writ Petition seeking a direction to the 1st Respondent to consider his representation, dated 01.06.2020 for the post of Chairperson in the Union Territory of Puducherry Commission for Protection of Child Rights, Puducherry.

2. According to the Petitioner, he is presently holding the post of Chairperson of the Child Welfare Committee, Puducherry. Pursuant to the Notification dated 28.05.2020 issued by the 3rd Respondent herein for appointment to the post of Chairperson in the Union Territory of Puducherry Commission for Protection of Child Rights, Puducherry, the Petitioner applied to the said post on 05.06.2020. As per the Notification, the age limit prescribed for the post of Chairperson is 65 years. As the Petitioner has crossed 65 years, he has submitted an application for age relaxation to Her Excellency Lt. Governor, Puducherry. However, having no other alternative remedy, the Petitioner is before this Court.

3. Heard the learned counsel on either side and perused the material documents available on record.

4. In a similar circumstance, where a Petitioner came up with a prayer in W.P.(MD) No.20006 of 2013 to consider his representation, a Division Bench of the Madurai Bench of this Court, by an order dated 17.02.2014, dismissed the said Writ Petition as devoid of merits. For better appreciation, relevant paragraphs of the said decision, are extracted hereunder:

"12. In Union of India v. M.K. Sarkar, reported in (2010) 2 SCC 59, the Hon'ble Supreme Court has held, in paragraphs 14 and 16, as follows:

"14. The order of the Tribunal allowing the first application of respondent without examining the merits, and directing the appellants to consider his representation has given rise to unnecessary litigation and avoidable complications. The ill-effects of such directions have been considered by this Court in C. Jacob v. Director of Geology and Mining [(2008) 10 SCC 115] Para 9.

"9. The courts/tribunals proceed on the assumption that every citizen deserves a reply to his representation. Secondly, they assume that a mere direction to consider and dispose of the representation does not involve any 'decision' on rights and obligations of parties. Little do they realise the consequences of such a direction to 'consider'. If the representation is considered and accepted, the ex-employee gets a relief, which he would not have got on account of

the long delay, all by reason of the direction to 'consider'. If the representation is considered and rejected, the ex-employee file an application/writ petition, not with reference to the original cause of action of 1982, but by treating the rejection of the representation given in 2000, as the cause of action. A prayer is made for quashing the rejection of representation and for grant of the relief claimed in the representation. The tribunals/High Courts routinely entertain such applications/petitions ignoring the huge delay preceding the representation, and proceed to examine the claim on merits and grant relief. In this manner, the bar of limitation or the laches gets obliterated or ignored."

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16.A court or tribunal, before directing "consideration" of a claim or representation should examine whether the claim or representation is with reference to a "live" issue or whether it is with reference to a "dead" or "stale" issue. If it is with reference to a "dead" or "stale" issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct "consideration" without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect."

13.The Principal Bench of this Court, by order dated 29.10.2013, in Prof. Saraswathi Govindaraj vs. The Secretary to Government, Ministry of External Affairs, Government of India and another, in W.P.No.28656 of 2013, has rejected a similar prayer to consider and dispose of the representation of the petitioner therein, within a time frame."

5. In the case on hand, if the Petitioner's representation is directed to be considered, it will amount to opening the pandora's box and it will be a stepping stone for further litigations. Hence, this Court does not find any merit in considering the grant of relief sought by the Petitioner. Accordingly, this Writ Petition is dismissed as devoid of merits. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

(aeb/jas)

To:

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सत्यमेव जयते

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VS (CO)
RMP (01/09/2020)

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