



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.10.2020

CORAM :

THE HON'BLE MR.A.P.SAHI, CHIEF JUSTICE
AND
THE HON'BLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

W.P.(MD) No.4817 of 2019
and WMP(MD)No.3824 of 2019

V.Gajendran

.. Petitioner

Vs

1. The State of Tamil Nadu,
Represented by the Principal Secretary,
Finance Department,
Secretariat, St.George Fort,
Chennai - 600 009.
 2. The Principal Secretary,
Energy Department, Government of Tamil Nadu,
Secretariat, St.George Fort, Chennai - 600 009.
 - 3.The Principal Secretary,
Industries Department, Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 600 009.
 - 4.Tamil Nadu Generation and Distribution Corporation Ltd.,
rep. by its Chairman Cum Managing Director,
No.144, Anna Salai, Chennai - 600 002.
 - 5.The Secretary,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai - 600 002.
- .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India seeking issuance of a writ of Mandamus, directing the Respondents No.1 to 3 to constitute a Special Committee headed by a Retired High Court Judge to probe into the promotions to the office of Senior Deputy Chief Internal Audit Officer, Deputy Chief Internal Audit Officer, Internal Audit Officer and Assistant Audit Officer, Audit Branch in Tamil Nadu Generation and Distribution Corporation Limited.



For Petitioner

: Mr.S.Louis

For respondents

: Mr.K.Mu.Muthu,
Addl. Govt.Pleader,
for R1 to R3
Mr.J.Sakthikumaran,
Standing Counsel for R4 and R5

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ORDER

[Order of the Court was made by **The Hon'ble Chief Justice**]

We have heard Mr.S.Louis, learned Counsel for the petitioner, Mr.K.Muthu, learned Additional Government Pleader for the respondents 1 to 3 and Mr.J.Sakthikumaran, learned Standing Counsel for the respondents 4 and 5.

2. We are not adjudicating this writ petition on merits and disposal of the writ petition should not be taken to be the acceptance of the claim of either of the parties in respect of the issues raised that certain unqualified, under qualified, ineligible persons are occupying office in the respondent TANGEDCO.

3.This is styled as a Public Interest Litigation. A preliminary objection has been raised by the learned Counsel for the respondents that such a writ petition would not be maintainable moreso, in the wake of the fact that the petitioner herein has disclosed in paragraph No.6 that there are writ petitions of Quo Warranto already pending for the said purpose being, W.P.(MD). No.19472 of 2018 and W.P(MD).No.24234 of 2018.

4. Learned Counsel for the respondents have relied on the judgment in the case of **Ayaaubkhan Noorkhan Pathan vs. The State of Maharashtra & Ors., [(2013) 4 SCC 465]**, in paragraph Nos.9, 10, 13 and 17, that is extracted herein under:-

"9. It is a settled legal proposition that a stranger cannot be permitted to meddle in any proceeding, unless he satisfies the Authority/Court, that he falls within the category of aggrieved persons. Only a person who has suffered, or suffers from legal injury can challenge the act/action/order etc. in a court of law. A writ petition under Article 226 of the Constitution is maintainable either for the purpose of enforcing a statutory or legal right, or when there is a complaint by the appellant that there has been a breach of statutory duty on the part of the Authorities. Therefore, there must be a judicially enforceable right available for



enforcement, on the basis of which writ jurisdiction is resorted to. The Court can of course, enforce the performance of a statutory duty by a public body, using its writ jurisdiction at the behest of a person, provided that such person satisfies the Court that he has a legal right to insist on such performance. The existence of such right is a condition precedent for invoking the writ jurisdiction of the courts. It is implicit in the exercise of such extraordinary jurisdiction that, the relief prayed for must be one to enforce a legal right. Infact, the existence of such right, is the foundation of the exercise of the said jurisdiction by the Court. The legal right that can be enforced must ordinarily be the right of the appellant himself, who complains of infraction of such right and approaches the Court for relief as regards the same. (Vide : State of Orissa v. Madan Gopal Rungta, AIR 1952 SC 12; Saghir Ahmad & Anr. v. State of U.P., AIR 1954 SC 728; Calcutta Gas Company (Proprietary) Ltd. v. State of West Bengal & Ors., AIR 1962 SC 1044; Rajendra Singh v. State of Madhya Pradesh, AIR 1996 SC 2736; and Tamilnad Mercantile Bank Shareholders Welfare Association (2) v. S.C. Sekar & Ors., (2009) 2 SCC 784).

10. A "legal right", means an entitlement arising out of legal rules. Thus, it may be defined as an advantage, or a benefit conferred upon a person by the rule of law. The expression, "person aggrieved" does not include a person who suffers from a psychological or an imaginary injury; a person aggrieved must therefore, necessarily be one, whose right or interest has been adversely affected or jeopardised. (Vide: Shanti Kumar R. Chanji v. Home Insurance Co. of New York, AIR 1974 SC 1719; and State of Rajasthan & Ors. v. Union of India & Ors., AIR 1977 SC 1361).

...

13. This Court, even as regards the filing of a habeas corpus petition, has explained that the expression, 'next friend' means a person who is not a total stranger. Such a petition cannot be filed by one who is a complete stranger to the person who is in alleged illegal custody. (Vide: Charanjit Lal Chowdhury v. The Union of India & Ors., AIR 1951 SC 41; Sunil Batra (II) v. Delhi Administration, AIR 1980 SC 1579; Mrs. Neelima Priyadarshini v. State of Bihar, AIR 1987 SC 2021; Simranjit Singh Mann v. Union of India, AIR 1993 SC 280; Karamjeet Singh v. Union of India, AIR 1993 SC 284; and Kishore Samrite v. State of U.P. & Ors., JT (2012) 10 SC 393).



17. In view of the above, the law on the said point can be summarised to the effect that a person who raises a grievance, must show how he has suffered legal injury. Generally, a stranger having no right whatsoever to any post or property, cannot be permitted to intervene in the affairs of others. "

5. Learned Counsel for the respondents further relied on the subsequent judgment in the case of **Madan Lal Vs. High Court of Jammu and Kashmir & Ors., [(2014) 15 SCC 308]**, in paragraph Nos.9 and 10, where the Apex Court following previous judgments held that writ petition for service matter in *pro bono publico* style would not be maintainable and therefore, the Court ought not to have entertained such petition.

6. Having considered the submissions raised, we are satisfied that since writs prayed for Quo Warranto have already been filed and pending consideration before this Court as noted above, it is not necessary to entertain this petition and we therefore close this petition, but, however, we further direct the Registry to list the aforesaid writ petitions immediately after Dussehra holidays before appropriate Bench for disposal. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

sj/pkn

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The Principal Secretary,
State of Tamil Nadu,
Finance Department,
Secretariat, St.George Fort,
Chennai - 600 009.

2. The Principal Secretary,
Energy Department, Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 600 009.



3.The Principal Secretary,
Industries Department, Government of Tamil Nadu,
Secretariat, St.George Fort,
Chennai - 600 009.

4.Chairman Cum Managing Director,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai - 600 002.

5.The Secretary,
Tamil Nadu Generation and Distribution Corporation Ltd.,
No.144, Anna Salai,
Chennai - 600 002.

6.The Section Officer,
Writ Section,
Madurai Bench of Madras High Court, Madurai.
(Direction to the Registry to List W.P.(MD).No.19472 of 2018 and
W.P(MD).No.24234 of 2018. immediately after Dasara holidays before
appropriate Bench)

+1 CC to M/s.S. LOUIS, Advocate (SR-20322[F] dated 16/10/2020)
+1 CC to M/s.T. SAKTHIKUMARAN, Advocate (SR-20617[F] dated
20/10/2020)

W.P (MD) .No.4817 of 2019
16.10.2020

VR(CO)
TR(29.10.2020) 5P 9C