



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 28.09.2020

CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD)No.12725 of 2020

and

W.M.P. (MD) Nos.10814 & 10816 of 2020

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R.Elilarasu

...Petitioner

-Vs-

1. The Secretary,
Social Welfare Department,
Secretariat,
Chennai 600 009

2. The District Collector,
Thanjavur District.

...Respondents

PRAYER: Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the entire records connected with the impugned notification dated 05.02.2019 issued by the 2nd respondent and quash the same as illegal.

For Petitioner : Mr.A.Raja

For Respondents : Mr.J.Padmavathi Devi,
Special Government Pleader

O R D E R

The prayer sought for herein is for a Writ of Certiorari, to call for the entire records connected with the impugned notification, dated 05.02.2019 issued by the 2nd respondent.

2. The petitioner has been working as a Drawing Master for more than 30 years in various schools, wherein, he worked in Thanjavur District for 17 years and on superannuation, he retired from service in the year 2017.

3. At this juncture, the second respondent issued the impugned notification, dated 05.02.2019 inviting applications from the aspirants for the post of Members of the Juvenile Justice Board, Thanjavur for a tenure of three years. Having accepted the notification, the petitioner also made an application and on prima facie acceptance of the application, the respondents also issued a



call letter to the petitioner to attend the interview, which the petitioner attended on 14.11.2019. Thereafter, no communication was received by the petitioner from the respondents, especially the second respondent office, as to whether the petitioner has got selected or not.

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4. Subsequently, it seems that the Selection Committee recommended names of 15 candidates for the purpose of appointment as Member of the Juvenile Justice Board. However, the name of the petitioner was not there. Therefore, he enquired with the same and it was revealed to him that, since he is not a native of Thanjavur district and he does not belong to the said district, he was not considered for the selection.

5. In this context, it is the case of the petitioner that, he asked an information through the R.T.I. Act from the respondents that, whether any Regulations or Rules were issued by the Government in this regard that, only the person belonging to the native district alone would be entitled to be considered for the selection to be a member of the Juvenile Justice Board. The answer was in the negative form given by the respondents on 19.05.2020. Therefore, it has become clear that, without any Rule or Regulations to that effect, since the notification impugned was issued, whereby, it has been specified that, those belonging to the Thanjavur district alone will be eligible to be considered for the appointment as a Member of Juvenile Justice Board.

6. Therefore, aggrieved over the said notification, now, the petitioner has come forward to challenge the very same notification, dated 05.02.2019.

7. Heard Mr.A.Raja, learned counsel for the petitioner, who would submit that, the said condition imposed in the impugned notification that, only the natives of the Thanjavur district alone will be eligible to be appointed, cannot be imposed as the respondents do not get any such prescription from the Regulations concerned, especially, the Rules made by the Government called the Tamil Nadu Juvenile Justice (Care and Protection of Children Rules, 2017).

8. Therefore, the learned counsel appearing for the petitioner would submit that, because of the nativity condition imposed in the impugned notification, the petitioner's candidature was not considered and therefore, the said condition is offending and also against the Rules referred to above. Therefore, the impugned notification is liable to be interfered with.

9. However, Mrs.J.Padmavathi Devi, learned Special Government Pleader appearing for the respondents would submit that, the petitioner having accepted the notification impugned, has



participated in the selection process and since has not been selected because he was not qualified due to the want of nativity and now, he has come forward to challenge the impugned notification. However, pursuant to the impugned notification, selection process was over and the selectees were appointed and they have been working. Therefore, the learned Special Government Pleader submits that, the present challenge cannot be sustained. Hence, the writ petition is liable to be rejected .

10. I have considered the said submission made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. As has been rightly pointed out by the learned Special Government Pleader appearing for the respondents, the petitioner has not come forward to challenge the impugned notification at the first instance immediately on coming to know that the condition imposed therein, that only the native person of the district concerned alone, would be eligible to be considered for appointment.

12. In fact, the petitioner having accepted the impugned notification, has applied knowing well, that, only those, who belong to Thanjavur District will be considered and pursuant to which, he was given a call letter to attend the interview on 14.11.2019 and he also attended the same and subsequently, it seems that, the Committee could have found that the petitioner does not belongs to Thanjavur District, which is one of the criteria fixed in the impugned notification and therefore, his candidature was not recommended and accordingly, he was not selected and appointed.

13. It is a settled proposition that, once a notification issued by the Selection or Appointing Authority, having accepted the conditions imposed in the notification, if the aspirant / applicant made an application and participated in the selection process and once the selection process is over, where the applicant / aspirant failed to get through for whatever reason, thereafter, the applicant/ aspirant cannot turn around and challenge the very condition imposed in the notification or prescribed therein, merely because, it became inconvenient or not suitable to the concerned applicant/ aspirant.

14. The law is well settled in this regard that, once the game is started and both the teams accepted the rules and started playing the game, half way through, the rules related to the game shall not be altered or changed. Moreover, it is also a settled proposition that, once, notification is issued, the conditions imposed thereon and the instructions given thereon, or the law to be enforced, it would bind both the persons, who issued the notification and the person who accepted and acted upon the notification. Herein the case in hand, the impugned notification having been issued in



February 2019, it was accepted and acted upon by both sides, and the petitioner also participated in the selection process, where he attended the interview on 14.11.2019 and after ultimate selection and appointment, now, he cannot turn around and say that the condition imposed with regard to nativity in the notification, is bad in law.

15. Therefore, for all these reasons, I am of the view that the present challenge cannot be said to be successful and sustainable one. In the result, the writ petition is liable to be rejected. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Secretary,
Social Welfare Department,
Secretariat,
Chennai 600 009

2. The District Collector,
Thanjavur District.

+1cc to SPL GP Sr.No.18407

Order made in
W.P. (MD) No.12725 of 2020
28.09.2020

VB (18.01.2021) 4P 4C