



WEB COPY

W.P(MD)No.2489 of 2015

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.02.2020

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.2489 of 2015

and

W.M.P(MD)No.17184 of 2017

MP(MD)No.2 of 2015

P.Vanitha

.. Petitioner

Vs.

- 1.The District Collector,
Sivagangai District,Sivagangai.
- 2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Ramnagar, Devakottai,Sivagangai District.
- 3.The Tahsildar,
O/o.the Tahsildar,
Ramnagar, Devakottai,
Sivagangai District.
- 4.The District Employment Officer,
O/o.the District Employment Office,
Sivagangai,Sivagangai District.
- 5.Mr.Sankara Subramanian,
District Employment Officer,
O/o.the District Employment Office,
Sivagangai, Sivagangai District.

6.Mrs.Amutha

.. 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 records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.A3-13083-2006, dated 02.12.2014 and quash the same as illegal and consequentially to direct the respondents to fill up the posts of Village Assistant at Vengaloor, Devakottai Taluk, Sivagangai District by issuing public notification, notifying the said vacancy and proceed with the recruitment process afresh in conformity with Articles 14 and 16 of the Constitution of India and pass such further or other orders.

For Petitioner : Mr.H.Mohammed Imran
for M/s.Ajmal Associates

For Respondents 1 to 4 : Mr.S.Dhayalan,
Government Advocate.

For Respondents 5 & 6 : No appearance

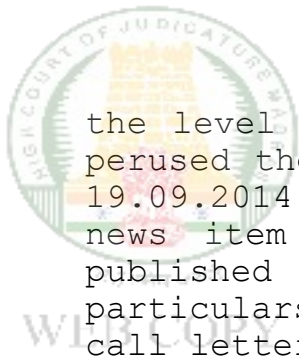
**ORDER**

This writ petition has been filed for issuance of a Writ of Certiorarified Mandamus to call for the records relating to the impugned order passed by the 3rd respondent in his proceedings in Na.Ka.A3-13083-2006, dated 02.12.2014 and quash the same as illegal and consequentially direct the respondents to fill up the posts of Village Assistant at Vengaloor, Devakottai Taluk, Sivagangai District by issuing public notification, notifying the said vacancy and proceed with the recruitment process afresh in conformity with Articles 14 and 16 of the Constitution of India.

2.The case of the petitioner is that the petitioner is residing at Sathamangalam Village, Vengaloor Post, Devakottai Taluk, Sivagangai District, which is situated 1.5 km away from Sathamangalam Village. She passed 8th Standard and she registered her qualification in the District Employment Exchange, Sivagangai on 07.02.2014. One Mr.Suresh, who is not the resident of that Village, was called for interview for appointment to the post of Village Assistant in her village. Therefore, objection was raised and the selection process was cancelled. While so, the respondents selected another person on extraneous consideration for appointment to the post of Village Assistant and the petitioner preferred representations, dated 19.09.2014 and 14.11.2014 to the respondents seeking for issuance of call letter to her in the event of filling up the post of Village Assistant at Vengaloor, Devakottai Taluk, Sivagangai District. But the 3rd respondent, vide impugned proceedings in Na.Ka.A3-13083-2006, dated 02.12.2014, appointed the 6th respondent as Village Servant as per the instructions of the 2nd respondent, as it is evident from the impugned appointment order itself. Therefore, the petitioner preferred a representation dated 10.12.2014 to the 1st respondent, which was not considered.

3.According to the petitioner, normally the 4th respondent, District Employment Officer, will publish news item regarding eligible candidates to participate in the selection process. But, no such news item was published in any of the newspapers and no public advertisement was made notifying the vacancy for appointment to the post of village servant. The petitioner would allege that the impugned appointment order to the 6th respondent, came to be passed only on extraneous consideration and the 4th respondent has not followed the Government Order in sponsoring the candidates.

4.The grievance of the petitioner is that the 5th respondent ought to have issued call letter to all the candidates including the petitioner. Pursuant to the application made by the petitioner under RTI Act, the Public Information Officer gave reply stating that paper publication was issued on 19.09.2014 in Daily Thanthi, Dinakaran, Dinamani and Dinamalar and as she completed 8th Standard, her name was not considered, whereas the qualification is only upto



the level of 7th Standard. The petitioner further submits that she perused the two newspapers, viz., Daily Thanthi and Dinamalar dated 19.09.2014 and neither any public notification/advertisement nor any news item as regards the appointment of Village Assistant, was published therein. The 5th respondent has revealed the incorrect particulars as if news items were published. It appears that the call letter in respect of the 6th respondent was issued on 16.09.2014 itself and it was served on the same day and the 6th respondent had alone participated and other candidates mentioned in the reply given by the 3rd respondent, are for other panchayats and not for Vengaloor Panchayat.

5.It is contended by the petitioner that the 6th respondent was alone called for interview against the rules and regulations governing the matter of appointment. For each post, five candidates have to be sponsored from the employment exchange. Therefore, the petitioner has challenged the impugned order passed by the 3rd respondent appointing the 6th respondent as Village Assistant at Vengaloor Panchayat.

6.The learned counsel for the petitioner submitted that the 6th respondent has been appointed without issuing any notification or paper publication and call letter has been sent only to the 6th respondent.

7.The learned Government Advocate appearing for the respondents 1 to 4 drawing the attention of this Court to the counter affidavit filed by the 3rd respondent, submitted that the 3rd respondent vide letter dated 03.09.2014, requested the 4th respondent to sponsor the list of eligible candidates for filling up of five posts of Village Assistants in Devakottai Taluk and no paper publication was made. The 4th respondent sponsored a list of eight candidates including the 6th respondent and they were called for interview and out of them, only three candidates including the 6th respondent attended the interview on 29.09.2014 and all are selected based on merits and in accordance with law. The 6th respondent was selected on non-priority category from scheduled caste as per communal rotation for the post of Village Assistant of Vengaloor Village and one Thiru.Muthusamy was selected on non-priority category from Backward Class as per communal rotation for Vethiyalangulam Village and one Thiru.Sasikumar was selected on non-priority category from scheduled caste as per communal rotation for Kodikulam Village. The list of candidates sponsored by the Employment Exchange did not contain the name of the petitioner and therefore, she was not called for the selection process. Further, the petitioner completed 8th standard, whereas the qualification is only upto the level of 7th standard. Thus, he prayed to dismiss the writ petition.

8.Despite notice being served on the respondents 5 and 6 and their names are being printed in the cause list, there is no



representation on behalf of them either in person or through counsel.

9. Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the respondents 1 to 4 and perused the materials available on record.

10. The 6th respondent was appointed as Village Assistant, vide impugned order, dated 02.12.2014. The petitioner challenged the said order on the ground that before the selection process, advertisement/publication was not made and the ratio of 1:5 for sponsoring candidates from the Employment Exchange, was not followed. On the side of the respondents 1 to 4, it is stated that the 4th respondent sponsored eight candidates and only three candidates including the 6th respondent, were attended the interview and they were appointed in three different panchayats.

11. The allegation made by the petitioner cannot simply be brushed aside as G.O.(Ms)No.18, Labour and Employment(N2) Department, states that for filling up of all categories of posts coming under the purview of Government Departments, Local Bodies (Urban and Rural), Cooperative Institutions, Public Sector Undertakings, all Government and aided Education Institutions and Government aided Engineering Colleges and Polytechnics, all other private organizations and institutions, etc, Employment Exchanges shall sponsor candidates in the ratio of 1:5.

12. Before the selection process in public employment, advertisement/paper publication should be made. But, in the present case, no advertisement/paper publication was made. Though the petitioner has made objections for selecting the persons on extraneous consideration, it has been dealt with in a very lethargic manner and even for the application filed by the petitioner under RTI Act, a reply has been given stating that paper publication was issued on 19.09.2014 in some of the newspapers, but no proof has been filed on the side of the respondents 1 to 4 to substantiate the same and the counter also does not disclose about the paper publication. Only eight persons have been sponsored by the Employment Exchange and it is stated that only three candidates attended the interview. Therefore, it creates a doubt that the appointment has been made only for extraneous consideration. When the petitioner came to know about the vacancy, she also made representations dated 19.09.2014 and 14.11.2014 seeking for issuance of a call letter to her in the event of filling up the post of Village Assistant. But, nothing has been taken into consideration and the 4th respondent has given reply stating that paper publication was issued on 19.09.2014. In the counter, the 3rd respondent has stated that only 8 candidates have been sponsored, out of which, three candidates including the 6th respondent had attended the interview and they were selected for three different panchayats, based on merits.



13.The learned Government Advocate appearing for the respondents 1 to 4 has made a feeble attempt by saying that the paper publication had been directed to be given only after the year 2015. But, the Government issued order in G.O.(Ms)No.18, dated 25.02.2008, fixing of ratio of 1:5 for sponsoring candidates from the Employment Exchanges. In the present case, the appointments were given based on the whims and fancies of the authorities and from the conduct of the authorities, this Court can come to a conclusion that the the appointment was made on extraneous consideration and it is unfortunate that the authorities had given wrong informations and incorrect particulars so as to appoint the persons on their choice, thinking that the person, who has completed only 7th Standard, may not be in a position to approach the Courts for redressal. In the considered opinion of this Court, these matters have to be viewed very seriously and this Court is inclined to refer this matter to the Government for taking appropriate action against the erring officials, who had been responsible for the above lapses and the appointment of the 6th respondent, without following the procedures.

14.In view of the above reasons, the impugned order dated 02.12.2014, passed by the 3rd respondent, is quashed. The respondents 1 to 4 are directed to issue fresh advertisement and to call for candidates and appoint a person to the post of Village Assistant, strictly in accordance with law. The writ petition is disposed of accordingly. No costs. Consequently, connected Miscellaneous Petition are closed.

15.A copy of this order is ordered to be marked to the Secretary to Government, Revenue Department, Government of Tamil Nadu, St. George Fort, Chennai - 9, for taking appropriate action against the erring officials. The Secretary to Government, Revenue Department, Government of Tamil Nadu, St. George Fort, Chennai - 9 shall report to this Court as to the action taken against the erring officials, within a period of 8 weeks from the date of receipt of the copy of this order.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



To

- 1.The District Collector,
Sivagangai District,
Sivagangai.
- 2.The Revenue Divisional Officer,
O/o.the Revenue Divisional Officer,
Ramnagar, Devakottai,
Sivagangai District.
- 3.The Tahsildar,
O/o.the Tahsildar,
Ramnagar, Devakottai,
Sivagangai District.
- 4.The District Employment Officer,
O/o.the District Employment Office,
Sivagangai,
Sivagangai District.

Copy to:

The Secretary to Government,
Revenue Department,
Government of Tamil Nadu,
St. George Fort, Chennai - 9.

+1 CC to SPL.GP (SR-6780[F] dated 18/02/2020)

+1 CC to M/s.AJMAL ASSOCIATES, Advocate (SR-6841[F] dated 18/02/2020)

**ORDER MADE IN
W.P(MD)No.2489 of 2015
17.02.2020**

VB(16.03.2020) 6P 8C