

HIGH COURT FOR THE STATE OF TELANGANA
THE HON'BLE THE CHIEF JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT APPEAL No.426 of 2020

Date: 07.10.2020

BETWEEN

Madde Chandramouli.

... APPELLANTS

AND

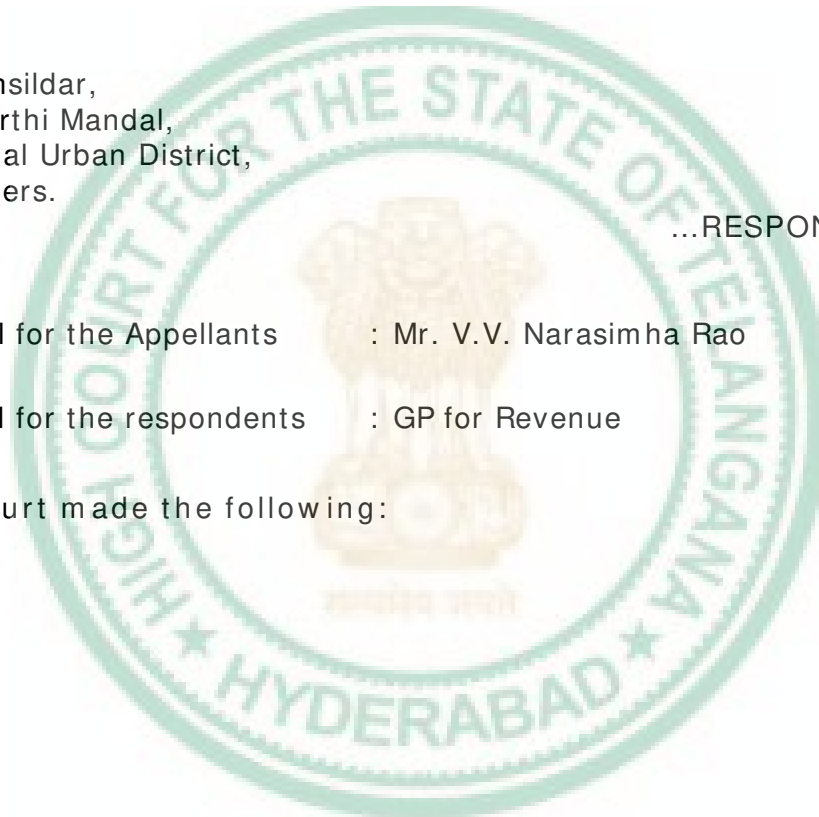
The Tahsildar,
Elakaturthi Mandal,
Warangal Urban District,
and others.

...RESPONDENTS

Counsel for the Appellants : Mr. V.V. Narasimha Rao

Counsel for the respondents : GP for Revenue

The Court made the following:



JUDGMENT: (Per Hon'ble Sri Justice B. Vijaysen Reddy)

Aggrieved by the order, dated 20.07.2020, passed by a learned Single Judge in WP.No.10572 of 2020, the appellants have approached this Court by way of this appeal.

2. Hereinafter, the parties shall be referred to as they are arrayed in the writ petition.

3. It is averred in the writ affidavit that the petitioner No.1 is the father of the petitioner No.2. The petitioner No.1 was appointed as Village Servant (Sethsindhi) vide proceedings dated 31.03.1987 for Damera Village, Elakaturthi Mandal, Warangal Urban District on compassionate grounds on the death of his father. In the appointment order, it was mentioned that he was appointed on temporary basis but the petitioner No.1 was appointed on permanent basis on compassionate grounds. It is the further case of the petitioners that as per the A.P. Village Revenue Assistants Service Rules, 2005 (for short 'the Rules'), there is a provision for appointment of Village Servants' legal heirs as Village Revenue Assistant (VRA). Since the petitioner No.1 worked as Village Servant for long time, it is claimed that petitioner No.2, is eligible for appointment of Village Revenue Assistant.

4. The grievance of the petitioners is that instead of considering the candidature of the petitioner No.2, the respondent No.1 has considered the candidature of the unofficial respondent No.5 on the ground that her husband died. The post of Village Servant/Village Revenue Assistant has fallen vacant on account of death of Annaiah, thus, legal heir of the petitioner No.1 i.e. petitioner No.2 is entitled for the said post, since the petitioner No.1 is aged more than 60 years.

5. According to the petitioner, as per Rule 5, Tahsildar is the appointing authority and under Rule 5, whenever vacancy arises, the appointing authority shall receive the applications for the post from intending candidates. However, the appointing authority is making appointment without issuing any notification, which is violative of Articles 14 and 16 of the Constitution of India.

6. According to the petitioner No.1, the petitioner No.2 is eligible and qualified to be considered for appointment to the said post along with unofficial respondent No.5 and his candidature can be considered in the place of petitioner No.1, as there are number of vacancies available for the said post. It is stated that the petitioner No.1 submitted a representation dated 31.01.2020 to the authorities for considering the candidature of his son viz. petitioner No.2 but no action is taken by the respondents. Moreover, the respondents are making efforts to appoint the unofficial respondent No.5 in the place of petitioner No.1.

7. The writ petition is filed seeking the following prayer:

“...the High Court may be pleased to declare the action of the Respondents in not considering the candidature of the 2nd Petitioner for appointment as Village Revenue Assistant VRA for the village of Damera Elkaturthi Mandal Warangal Urban District which is illegal and unconstitutional and violative of Article 14 and 16 of the Constitution of India and in consequence thereof direct the Respondents to consider the candidature of the 2nd petitioner for appointment as Village Revenue Assistant VRA by taking into consideration the representation of the 1st Petitioner dated 31.03.2020 as otherwise the Petitioner will be put to heavy and irreparable loss by issuing Writ of Mandamus or any other Writ or order or direction and pass such other order or order the Hon'ble Court may deem fit in the circumstances of the case.”

8. Learned Single Judge dismissed the writ petition by holding that there are no merits in the writ petition. Learned Single Judge pointed

out that as of now the respondent No.5 is not appointed and therefore, the issue on that aspect is premature. The representation submitted by the petitioner No.1 does not refer to whether the respondent No.5 is going to be appointed but claim that petitioner No.2 is entitled since petitioner No.1, aged 66 years, is suffering from ill health. The learned Single Judge observed that the claim of petitioner is to provide employment in the form of succession, which, in public employment, is dispensed with long ago and only exception carved out is appointment on compassionate grounds. Thus, the claim of the petitioners to grant relief of employment, more particularly, having regard to provisions in Rules 8 and 9 of the Rules has no merit.

9. Learned counsel for the appellants submitted that the petitioners are only seeking that the case of the petitioner No.1 be considered along with other eligible candidates. The post is vacant since January 2020 and he submitted a representation on 31.01.2020. The claim of the petitioners is not premature. The writ petition was erroneously dismissed on the ground that providing employment in the form of succession is not available as on today. The learned Single Judge on wrong premise of law and facts dismissed the writ petition at the admission stage without considering the fact that the petitioner No.1 sought for disposal of the representation along with the other eligible candidates.

10. Heard Mr. V.V. Narasimha Rao, learned counsel for the appellants and the Government Pleader of Revenue.

11. The case of the petitioners lacks foundational facts. The petitioners are making contradictory claims. On the one hand, it is stated that the petitioner No.1 is aged 66 years and working as Village Servant and on the other hand, it is stated that the earlier Village

Servant died in the month of January 2020 and vacancy has arisen. It is to be noted that if the petitioner No.1 is still working as Village Servant, it cannot be said that there is any vacancy. Further, the petitioners have not explained as to how the petitioner No.1 is working when the said post was occupied by one Madde Annaiah. The petitioner No.1 has not pointed out any Rule under the Rules which entitles the petitioner No.1 to seek appointment on hereditary basis.

12. Mere submission of representation does not vest any right in the petitioners to seek disposal of such representation unless public duty is cast upon the authorities to do so. There is no material before this Court to show that any vacancy has arisen on account of the death of Madde Annaiah and on account of such vacancy, a notification is issued for appointment to the post of Village Servant/Village Revenue Assistant. There is also no material to show that the respondent No.5 is appointed or sought to be appointed. In these background facts and circumstances, this appeal cannot be entertained since the petitioners hopelessly fail to establish any legal right to seek appointment to the post of Village Servant/Village Revenue Assistant.

13. For the reasons stated above, this Court does not find any merit in the writ appeal. It is, hereby, dismissed.

As a sequel, the miscellaneous petitions, pending if any, shall stand closed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, CJ

B. VIJAYSEN REDDY, J