



IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved On	20/09/21
Pronounced On	15/11/21

CORAM

THE HON'BLE MR.JUSTICE C.SARAVANAN

W.P.No.2710 of 2016
and
W.M.P.No.19223 of 2017

(Through Video Conferencing)

E. Gnanakannan ... Petitioner

Vs.

1. The Secretary to Government,
Rep by its Secretary to Government of Tamil Nadu
Revenue Department,
Fort. St.George,
Chennai - 600 009.
2. The District Collector,
Cuddalore District,
Cuddalore.
3. The District Revenue Officer,
Virudhachalam,
Cuddalore District.
4. The District Employment Officer,
District Employment Office,
Cuddalore District,
Cuddalore.
5. The Revenue Thasildhar,
Virudhachalam Taluk,
Cuddalore District.



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6. The Director,
Vigilance and Anti Corruption,
Lourdhusamy Pillai Colony,
Edamalaipatti Pudur,
Tiruchirappalli,
Tamil Nadu - 620 023.

7. Elalayaraja
8. Chitra
9. Ramalingam
10. Kavitha
11. Anthoniraj
12. Sabitha
13. Thangam
14. Kolanji
15. Roja
16. Sasikala

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records on the file of the fifth respondent relating to the proceedings dated 11.07.2015 in Na.Ka.A3/9567/2014, quash the same and consequently direct the 5th respondent to appoint the petitioner to the post of Village Assistant based on his 17 years seniority in the employment exchange and on the basis of the selection and interview held on 03.06.2015 with all consequential monetary and other service benefits.

For Petitioner : Mr.R.Thirumoorthy

For R1 to R6 : Mr.L.S.M.Hasan Fizal
Government Advocate

For R7 to R16 : Mrs.A.L.Gandhimathi

ORDER

The petitioner has challenged the appointment of the seventh to sixteenth respondents as Village Assistants pursuant to Notification dated 20.06.2015 issued by the fifth respondent Tahsildar.



2. It is the case of the petitioner that the appointments were made contrary to the provisions of the Special Rules for the Tamil Nadu Village Assistants Service and by resorting to favouritism, nepotism and corruption.

3. It is the further case of the petitioner that the seventh respondent was appointed as Village Assistant even though the post was a reserved post for Ortho Handicapped Persons. It is submitted that the seventh respondent had only an impaired eye sight of one eye and therefore the appointment of the seventh respondent was liable to be interfered. As far as the eleventh respondent is concerned it is submitted that the eleventh respondent neither belongs to the Koonankurichi Village nor was sponsored by the fourth respondent District Employment Office nor participated in the interview held on 30.06.2015.

4. It is submitted that but for a large-scale corruption during the appointment by interview conducted by the fifth respondent Tahsildar such appointments could not have been possible. It is submitted that the petitioner participated in the interview sponsored by the fourth respondent District Employment Office held on 30.06.2015 and had answered all the questions properly.

5. It is further submitted that the petitioner belongs to a Scheduled Caste (SC) community and therefore the petitioner has been unfairly edged out in the selection process by the fifth respondent Tahsildar pursuant to the aforesaid Notification dated 20.06.2015, issued by the fifth respondent Tahsildar.

6. The learned counsel for the petitioner submits that the eleventh respondent does not belong to Koonankurichi Village apart from the fact that the eleventh respondent was also not interviewed among the thirty five (35) persons who were shortlisted for being interviewed on 30.06.2015.

7. The learned counsel for the petitioner further submits that the petitioner had also sent complaints to the Director of CBI, Director of Vigilance and Anticorruption Department and Deputy Superintendent of Police, Cuddalore to enquire and look into the corruption.

8. The learned counsel for the petitioner further submits that the petitioner's representation was not considered by the official respondents herein and therefore the petitioner has



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sent a representation to the Chief Minister Cell to look into the irregularities in the appointment of the private respondents herein. The learned counsel for the petitioner has placed reliance on the following decisions:-

- "1. W.P.No.1027 of 2013 dated 09.06.2014.
2. W.P.No.31317 of 2012 and W.P.No.9600 of 2013 dated 19.02.2015."

9. Appearing on behalf of the official respondents, the learned Government Advocate submits that the appointment of the eleventh respondent cannot be questioned by the petitioner as there were no candidates participated from the Koonankurichi Village. It is submitted that the eleventh respondent was from a village named Kattukoonankurichi which is situated next to the said Koonankurichi Village. Whereas, the petitioner was from U.Managalam village. The respondents have also denied the allegation of the petitioner i.e, the eleventh respondent was neither shortlisted for being interviewed nor interviewed. It is further submitted that the post in Koonankurichi Village was reserved for GT-Gen Non-Priority and therefore the petitioner cannot claim any priority rights.

10. Referring to the counter affidavit of the fifth respondent, the learned Government Advocate further submits that the sixth respondent had no jurisdiction to indict conduct of the fifth respondent and file a counter affidavit unilaterally. It is further submitted that if the sixth respondent was so convinced with the allegation of the petitioner regarding receipt of gratification only a report ought to have been filed. That apart, it is further submitted that the private respondents herein have already taken charge and have assumed the post of Village Assistants in the ten (10) villages and therefore at this distant point of time it would be unfair to oust them even if there was any irregularity.

11. It is further submitted that about five (5) candidates were sponsored by the fourth respondent District Employment Office and about thirty (30) applications were received pursuant to the advertisement/notification dated 20.06.2015 of the fifth respondent Tahsildar for the Koonankurichi Village. It is further submitted that out of thirty five (35) applications eleven (11) persons were over qualified and six (6) persons did not appear for the interview and in all only eighteen (18) persons were interviewed out of thirty five (35) persons (5+30). Among the eighteen (18) persons, eleventh respondent, was selected and there was no irregularity in the appointment of the eleventh respondent.



12. The sixth respondent has filed a separate counter. In the counter, the sixth respondent has admitted that the vacancy in Ka.Elamangalam Village was reserved for MBC/DNT-General Non-Priority-PHP-Ortho and the post was filled by appointing the seventh respondent a physically handicapped and in violation of the Rules of Reservation for Physically handicapped persons. The sixth respondent has however denied any evidence of payment of Bribe, Corruption or any other illegality in the appointment. It is further submitted that an enquiry was conducted and an enquiry report was submitted. Therefore the appointment was in violation of the rules of reservation for physically handicapped persons. The sixth respondent has over denied any evidence of payment of Bribe or any other illegality. Therefore, an enquiry was conducted and enquiry report was submitted.

13. It is further submitted that the Directorate of Vigilance and Anti Corruption has also forwarded a report to the vigilance Commissioner with a recommendation to forward the report to the Head of the Department to take necessary action. While at the same time the sixth respondent has prayed for dismissal of the Writ petition.

14. Appearing on behalf of the seventh and eleventh respondent, the learned counsel submits that among the candidates sponsored who where shortlisted for being interviewed only the seventh respondent was a handicapped person as no other handicapped person with Ortho disability appeared for the interview.

15. It is therefore submitted that the petitioner cannot have any grievance against the appointment of the seventh respondent. It is further submitted that even otherwise, the petitioner was not from the K.E.Elamangalam Village, therefore, the petitioner cannot have any complaint against the appointment of the seventh respondent.

16. As far as the appointment of the eleventh respondent is concerned, the learned counsel submits that the interview was held on 30.06.2015 at the office of the fifth respondent and the allegation is that the eleventh respondent did not participate in the interview was without any basis. It is further submitted that the eleventh respondent was also sponsored by the fourth respondent District Employment Office and therefore the case of the petitioner is without any merits.



17. I have considered the arguments advanced by the learned counsel for the petitioner and the learned counsel for the official respondents and the private respondents, namely the seventh and the eleventh respondent.

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18. At the outset, it needs to be underlined that the sixth respondent has indicated that the Directorate of Vigilance and Anti Corruption has forwarded a report to the Vigilance Commissioner with a recommendation to take appropriate action by the Head of the Department. However, a copy of the report has neither been furnished nor filed before the Court.

19. The petitioner on the other hand had registered himself with the 4th respondent and was sponsored by the fourth respondent in the selection to the Post of Village Assistant for the Koonankurichi Village even though, the petitioner was from U.Mangalam Village.

20. The eleventh respondent in his counter has also stated that the eleventh respondent was also sponsored by the fourth respondent District Employment Office. The counter filed by the official respondents have not clearly brought out the status and basis for the appointment of the eleventh respondent. The fifth respondent has not categorically denied the allegation of the petitioner that the eleventh respondent was not a candidate sponsored by fourth respondent District Employment Office.

21. The eleventh respondent has also not given the particulars of the registration numbered with District Employment Office barring a mere assertion that the eleventh respondent was also sponsored by the fourth respondent District Employment Office. It appears the truth lies in between.

22. The Hon'ble Supreme Court in State of Orissa vs Mamata Mohanty (2011) 3SCC 436, has held that if an appointment is made by merely inviting names from District Employment Office or putting a note on the notice board, etcetera it will not meet the requirements of Article 14 and 16 of the Constitution of India. Such course would violate mandates of Article 14 and 16 of the Constitution of India as it would deprive a candidate who are otherwise eligible for the post from not being considered.

23. The method of recruitment/selection adopted by the respondent vide notification dated 20.06.2015 by the publication and by including the names of the persons sponsored by the fourth respondent District Employment Office and inviting application open market appears to be in order. The notification



३.५ प्रत्येक अर्थी



29. In case the 2nd respondent concludes that the 11th respondent was indeed not sponsored by the 4th respondent District Employment Office or that the 11th respondent was much junior to the petitioner then the 5th respondent shall take expeditious steps to appoint the petitioner to the Post of Village Assistant in terms of the Notification dated 20.06.2015. It is left open to the Appointing Authority to take steps to proceed against the 5th respondent if there was any irregularity.

30. The 2nd respondent shall call for the records surrounding the appointment of the 11th respondent, scrutinise the papers and pass appropriate orders within a period of 30 days from the date of receipt of a copy of this order. If the appointment of the 11th respondent turns out to be irregular suitable action may be taken against the 11th respondent by issuing a proper Show Cause Notice as to why his appointment should not be cancelled.

31. The Writ Petition stands disposed with the above observations. No costs. Consequently, connected Writ Miscellaneous Petition is closed.

SD/-
ASSISTANT REGISTRAR

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SUB ASSISTANT REGISTRAR

rgm
To

1. The Secretary to Government of Revenue Department,
The Government of Tamil Nadu,
Fort. St. George,
Chennai - 600 009.
2. The District Collector,
Cuddalore District,
Cuddalore.
3. The District Revenue Officer,
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Lourdhusamy Pillai Colony,
Edamalaipatti Pudur,
Tiruchirappalli,
Tamil Nadu - 620 023.

+1cc to Mr.R.Thirumoorthy, Advocate SR.58566
+2cc to Mrs.A.L.Ganthimathi, Advocate Sr.58762
+1cc to the Government Pleader Sr.58887

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srg 21/02/2022