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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.11.2021

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THE HONOURABLE MR.JUSTICE C.SARAVANAN

W.P.No.23489 of 2021
and
W.M.P.No. 24730 of 2021
(Through Video Conferencing)

P.Narmadha

...Petitioner

Vs

1. The Principal Secretary to Government
Environment, Climate Change & Forest Department,
Secretariat, Chennai - 600 009.
2. The Chairman,
Tamilnadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai - 600 032.
3. The Member Secretary,
Tamilnadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai - 600 032.

...Respondents

Prayer: Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorari, to call for the records of the impugned letter No. T.N.P.C.B/Pani/Pa.5/20459/2021 dated 06.10.2021 passed by the 3rd Respondent and quash the same and consequently appoint the Petitioner in the post of Assistant (Junior Assistant) in Tamilnadu Pollution Control Board under the preferential quota namely Inter Caste Marriage (ICM) based on the Petitioner representation dated 22.09.2021.

For Petitioner : Mr.M.Rajendiran

For Respondents : Mr.L.S.M.Hasan Fizal
Government Advocate

ORDER

This Writ Petition has been filed by the Petitioner challenging the impugned order dated 06.10.2021 of the third Respondent pursuant to an order in W.P.No.17835 of 2021 dated 26.08.2021 of this Court.



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2. In Paragraphs 4 and 5, this Court had ordered as follows:-

"4. However, the Petitioner has not asked the Respondents to disclose private information of individuals. The Petitioner is entitled to know the persons who were selected and why she was not selected.

5. Under these circumstances, this Court is inclined to partly allow this Writ Petition by directing the 3rd Respondent to give a proper reply to the Petitioner's representation dated 16.07.2021 within a period of two weeks from the date of receipt of a copy of this order."

3. In the impugned order, the Respondents have stated that the Petitioner stood at Sl.No.11 in the priority list and therefore, the Petitioner is not entitled to be appointed as Junior Assistant against the preferential quota (Inter Caste Marriage).

4. The learned counsel for the Petitioner submits that the Respondents have not given full details and there is something more which ought to have been disclosed by the Respondents. The learned counsel for the Petitioner further submits that there is a shroud of mystery surrounding around the appointment as the Respondents have not given full effect to the priority quota for person under the Inter Caste Marriage.

5. The learned Government Advocate for the Respondents referred to the decision of the Hon'ble Supreme Court in the case of Saurav Yadav and others Vs State of Uttar Pradesh and others, reported in 2020 14 SCALE 389. The relevant portion from the order is reproduced below:-

"20. At the outset, it needs to be considered whether the decision in Alok Kumar Singh [Alok Kumar Singh v. State of U.P., (2019) 14 SCC 692 : (2020) 2 SCC (L&S) 319] had recognised the order dated 16-3-2016 [Ashish Kumar Pandey v. State of U.P., 2016 SCC OnLine All 187] as contended. The observations in the decision of this Court were : (SCC p. 698, para 9)

"9. It may be mentioned here that in terms of the decision of a Single Judge of the High Court of Allahabad rendered on 16-3-2016 [Ashish Kumar Pandey v. State of U.P., 2016 SCC OnLine All 187] which was



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confirmed by the Division Bench by its judgment and order dated 29-7-2016 [State of U.P. v. Ashish Kumar Pandey, 2016 SCC OnLine All 2611] , in connection with horizontal reservation to be adopted while finalising the result, another revised final result was published on 29-11-2016. Since no grievance is made on this count, we have refrained from going into the details in respect of such challenge and the consequences as a result of such directions."

The narration of events was only to note the effect of the order dated 16-3-2016 [Ashish Kumar Pandey v. State of U.P., 2016 SCC OnLine All 187] and the affirmation thereof in appeal, as a result of which revised final list was published on 29-11-2016. As the observations indicate, this Court had not gone into the details in respect of challenge entertained by the High Court as no occasion had arisen for such consideration. We, therefore, reject the submission that the order dated 16-3-2016 [Ashish Kumar Pandey v. State of U.P., 2016 SCC OnLine All 187] stood approved by this Court."

6.The learned counsel on behalf of the Respondents submits that, the Petitioner neither qualified in the general turn nor in the priority quota and therefore, the Respondents have issued the impugned order dated 06.10.2021.

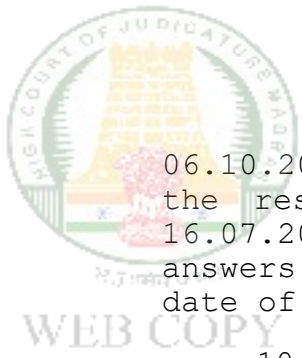
7.Heard learned counsel for the Petitioner and learned counsel for the Respondents.

8.It is noted that on earlier occasion, an order came to be passed by this Court on 26.08.2021 in the Writ Petition filed by the Petitioner in W.P.No.17835 of 2021, the relevant portion of the order reads under:

"5.Under these circumstances, this Court is inclined to the partly allow this Writ Petition by directing the 3rd Respondent to give a proper reply to the Petitioner's representation dated 16.07.2021 within a period of two weeks from the date of receipt of a copy of this order."

The impugned communication of the Respondents, dated 06.10.2021 has not complied with the order passed in the said Writ Petition. Even if the Petitioner was not qualified under the general category or under the priority quota, the petitioner is still entitled to the answers to the questions sought for by the Petitioner in her representation dated 16.07.2021.

9.Considering the same, the impugned communication, dated



06.10.2021 is quashed, by directing the Respondents to answer the respective questions in Petitioner's communication dated 16.07.2021. Respondents are directed to give appropriate answers to the Petitioner within a period of two weeks from the date of receipt of a copy of this order.

10. Accordingly this Writ Petition stands disposed of with the above directions. No costs. Consequently connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

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Sub Assistant Registrar

jeni/sai

To

1. The Principal Secretary to Government
Environment, Climate Change & Forest Department,
Secretariat,
Chennai - 600 009.
2. The Chairman,
Tamilnadu Pollution Control Board,
No.76, Mount Salai, Guindy,
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3. The Member Secretary,
Tamilnadu Pollution Control Board,
No.76, Mount Salai, Guindy,
Chennai - 600 032.

+1cc to Mr.M. Rajendiran, Advocate, S.R.No.57457

+1cc to the Government Pleader, S.R.No.57705

W.P.No.23489 of 2021

AK-II(CO)
RGA(29/11/2021)