



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NO.1002 OF 2012

and

M.P(MD)No.2 of 2012

- 1.D.Sabarinath,
Village Assistant,
Lekgayankottai Village,
Oddanchathiram Taluk,
Dindigul District.
- 2.K.Kalpana,
Village Assistant,
Boduvaarpatti Village,
Oddanchathiram Taluk,
Dindigul District.
- 3.S.Saratha,
Village Assistant,
Ellappatti Village,
Oddanchathiram Taluk,
Dindigul District.
- 4.T.Indhira,
Village Assistant,
Chinthalamatti Village,
Oddanchathiram Taluk,
Dindigul District.
- 5.G.Thirumayi,
Village Assistant,
Puliyamarathukottai Village,
Oddanchathiram Taluk,
Dindigul District.
- 6.P.Palanikumar
Village Assistant,
Atthappanpatti Village,
Oddanchathiram Taluk,
Dindigul District.



7.N.Karuppusamy,
Village Assistant,
Kothayam Village,
Oddanchathiram Taluk,
Dindigul District.

8.Selvaraj,
Village Assistant,
Markkampatti Village,
Oddanchathiram Village,
Dindigul District.

:Appellants 1 to 8/Third Parties

.vs.

1.M.Soundararajan

:Ist Respondent/Petitioner

2.The District Collector,
Dindigul District,
Dindigul.

3.The Tahsildar,
Oddanchathiram Taluk,
Dindigul District.

4.The District Employment Officer,
Dindigul District,
Dindigul.

:Respondents 2 to 4/
Respondents 1 to 3

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent praying this Court to set aside the order passed by this Court in W.P(MD)No.12827 of 2012, dated 8.10.2012.

Prayer in WP(MD). 12827/ 2012 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order issued by the 2nd Respondent proceedings in Na.Ka.No.6404/09/A6 dated 07.08.2012 and quash the same and consequently direct the Respondent to appoint the Petitioner for the post of Village Assistant in the 2nd Respondent s office within time frame as fixed by this Honourable Court.

For Appellants

:Ms.N.Rekha
for M/s.Ajmal Associates



For Respondent-1

:Mr.S.Karthick

For Respondents
2 to 4

:Mr.M.Murugan
Government Advocate

WEB COPY

JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

This Writ Appeal is directed against the order made in W.P (MD)No.12827 of 2012, dated 8.10.2012, in allowing the Writ Petition filed by the first respondent herein.

2.Heard the learned counsel appearing on either side and perused the materials placed before this Court.

3.The first respondent herein had preferred a Writ Petition in W.P(MD)No.12827 of 2012 for issuance of a Writ of Certiorarified Mandamus calling for the records of the third respondent herein in Proceedings in Na.Ka.No.6404/09/A6, dated 07.08.2012, which is a direct interview letter for the post of Village Assistant issued to one M.Saravanan.

4.The grievance of the Writ Petitioner was that the third respondent, being the appointing authority, had called for eligible persons for the third respondent Office directly for appointment to the post of Village Assistant. Therefore, a Writ Petition was filed challenging the call letters contending that the post of Village Assistant being a public employment, it has to be conducted only after making wide publicity by way of advertisements in Newspapers and Notice Board.

5.The said challenge was made pursuant to the G.O.Ms.No.429, Revenue Department, dated 8.8.2007. The said Writ Petition was allowed by quashing the impugned order on the basis of the judgement of the Division Bench passed by this Court in **W.P.No.26162 of 2010, dated 2.8.2012 (K.P.Jaganathan .vs. The Commissioner, Department of Employment and Training, Alandur Road, Guindy, Chennai - 600 002 and others)**, which was confirmed by this Court in **W.A.No.1027 of 2013, dated 9.6.2014**, wherein, it has been categorically held giving a direction to the Government of Tamil Nadu to follow this judgment while filling up of all public posts in future as per the directions given therein. Based on the said judgment, the Writ Petition was allowed. Aggrieved by the same, the Writ Appellants, who are third parties, who are



selected by the fourth respondent, have preferred the above Writ Appeal. Though it is stated that they have been successfully employed till today by virtue of an order of injunction granted in the Writ Appeal, the ratio laid down in the case of ***K.P. Jaganathan's case*** as stated supra, is applicable to the present case also. Therefore the appointment of the Writ Appellants itself is illegal. It is also stated by the learned Government Advocate appearing for the respondents 2 to 4 that subsequent to the filing of this Writ Appeal, two or three selection process for the post of Village Assistant was conducted as per the mode of selection, as suggested by the Division Bench of this Court and the entire selection process was over.

6. In view of the above, the plea of the appellants herein, who are the third parties, cannot be entertained and hence the Writ Appeal stands dismissed. No costs. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (CO)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

vsn

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 District Collector,
Dindigul District,
Dindigul.

<https://hcservices.ecourts.gov.in/hcservices/>



2.The Tahsildar,
Oddanchathiram Taluk,
Dindigul District.

3.The District Employment Officer,
Dindigul District,
Dindigul.

+1 CC to M/s.R.GANDHI, Advocate (SR-9403[F] dated 08/03/2021)

+1 CC to SPL GP (SR-9505[F] dated 08/03/2021)

+1 CC to MR.S.KARTHIK, Advocate (SR-9522[F] dated 09/03/2021)

JUDGMENT MADE IN
W.A(MD)NO.1002 OF 2012
and
M.P(MD)No.2 of 2012
05.03.2021

KM (19.03.2021) 5P 7C