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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN  
AND  
THE HONOURABLE MRS.JUSTICE N.MALA

W.A.NO.661 OF 2022  
AND  
C.M.P.NO.4538 OF 2022

1. Mrs.U.Divya
2. Mr.Tamilmani
3. Mr.Bismilla
4. Mr.K.Manikandan
5. Mr.Balakrishnan
6. Mr.A.Elamvazhuthi
7. Jayakumar Murugan
8. J.Ramkumar

... Appellants

.Vs.

1. The State of Tamil Nadu,  
Rep. by its Secretary to Government  
Cooperation, Food and Consumer,  
Protection Department,  
Secretariat,  
Chennai - 600 009.
2. The Registrar of Co-operative Societies,  
NVN Natarasan Maaligai,  
170, EVR Periar High Road,  
Kilpauk, Chennai - 600 010.
3. The Joint Registrar,  
Villupuram District Recruitment Bureau  
for Co-operative Societies,  
Villupuram Region,  
Master Complex,  
Villupuram - 605 602.
4. The District Collector of Kallakuruchi,  
Kesavalu Nagar, VOC Nagar,  
Kallakuruchi,  
Tamil Nadu - 606 202.

... Respondents



PRAYER:-

Writ Appeal filed as against the order dated 01.02.2022 passed in W.P.No.10653 of 2021.

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PRAYER IN W.P.NO.10653 OF 2021:-

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 2<sup>nd</sup> and 3<sup>rd</sup> Respondents to call for the records of the respondents relating to the file of the Application and representation of the petitioner on 03/12/2020 and to the order the respondent for the appointment.

For Appellants : Mr.M.Dig Vijaya Pandian  
Assisted by  
Mr.TN.Buvaneswaran

For Respondents : Mr.R.Shunmuga Sundaram  
Advocate General  
Assisted by  
Mrs.Mythreyee Chandru  
Special Government Pleader

#### J U D G M E N T

S.VAIDYANATHAN., J and N.MALA., J

This writ appeal has been preferred as against the order of the learned Single Judge dated 01.02.2022 made in W.P.No.10653 of 2021.

2. Pursuant to the Notification/Advertisement No.4/2020 dated 19.06.2020, issued by the 3<sup>rd</sup> respondent herein, inviting applications from eligible candidates for the post of Salesman in Co-operative Shops, the appellants herein had submitted their applications and after scrutiny, the appellants were called for interview, which they had accordingly attended on 03.12.2020. Since the results of the interview were not published, the appellants approached this Court by way of W.P. No. 10653 of 2021. However, when the writ petition was taken up, it was submitted on behalf of the respondents that they were proposing to withdraw the notification/advertisement, which was the subject matter of challenge in the writ petition and the learned Single Judge, based on the said submission, had dismissed the writ petition as infructuous with liberty to the appellants to



challenge any fresh cause of action that accrues to the appellants in the subject matter in future. Aggrieved by the said order, the present writ appeal has been filed.

3. When the writ appeal was taken up for hearing, the learned counsel appearing for the appellants submitted that pursuant to the advertisement dated 19.06.2020, the entire process had been completed, but for reasons best known to the respondents, the results are yet to be declared. He drew the attention of this Court to Rules 151 (b) and 150 (2)(a) of the Tamil Nadu Co-operative Societies Rules, 1988.

4. The learned Advocate General on behalf of the respondents submitted that due to pandemic situation, the number of vacancies had increased to a larger extent when compared to what was published in Advertisement dated 19.06.2020 and therefore, necessary instructions had been issued by the Registrar of Co-operative Societies vide letter dated 17.11.2021 to cancel the said notification and the same is produced before this Court. He further submitted that since the number of vacancies has now increased to a larger extent, a composite decision needs to be taken with regard to appointment of candidates and the decision taken to withdraw the notification pertains to all Co-operative Societies and that there is yet another Writ Petition pertaining to this Society, which is pending before this Court. He has also produced another resolution dated 22.03.2022 stating that notification dated 19.06.2020 has been withdrawn, as per the submission made before the learned Single Judge. Further, the learned Advocate General would submit that one K.Manimaran, Deputy Registrar (Public Distribution System), who was earlier the Controller of Examinations is no more and all the persons, who have to sit together and take a decision have been transferred to various other places before finalizing the interview results that could be published. In view of the aforesaid position, the panel could not be drawn.

5. During the course of arguments, when this Court posed a query that due to the withdrawal of the notification dated 19.06.2020, many of the candidates, who applied pursuant to the said notification, would have crossed the age limit prescribed in the said notification and may not be eligible for participation in the selection process if a fresh advertisement is issued thereby depriving them from being selected, learned Advocate General would draw the attention of this Court to the statement of Chairman, Villupuram District Recruitment Bureau, wherein it is stated as follows:

(i) the Villupuram District Recruitment Bureau is ready to allow all the 8 appellants to participate without submission of fresh application



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and payment of fees in the next notification to be issued;

(ii) the Villupuram District Recruitment Bureau is ready to reserve 8 posts of Salesman in the vacancies to be published in the fresh notification and preference will be given to them provided if the appellants/applicants fullfill all the eligibility criteria required for the above posts.

The learned Advocate General would further submit that out of 8 vacancies referred to by the appellants, one belongs to Muslim quota and three belongs to Scheduled Tribe and out of 7 candidates, only three could be accommodated in the said quota unless all these candidates come on merit to be accommodated in the said post.

6. Heard both sides. Perused the records.

7. It is no doubt true that Advertisement No.4 of 2020 has been issued by a competent person for filling up vacancies numbering 236 to the post of Salesman in a particular society and there is no illegality in the advertisement and in fact, policy decision can be taken which cannot be interfered with by this Court. However, such policy decision cannot be arbitrary. When the entire selection process has been completed in consonance with the Co-operative Societies Act and Rules made thereunder, the question of withdrawal of Notification/Advertisement dated 19.06.2020 is not permissible to eliminate the candidates who have participated in the selection pursuant to the notification. The act of the respondents is nothing but colourable exercise of power. In case of increase in number of vacancies, nothing prevented the respondents from issuing a fresh advertisement for the balance vacancies so that competent persons are allowed to participate. The fact remains that due to the withdrawal of the notification dated 19.06.2020, many of the candidates, who applied pursuant to the said notification, would have crossed the age limit prescribed in the said notification thereby depriving them from being selected, which is arbitrary. Eventhough in the selection process, the candidates may or may not get a chance to be accommodated in the post in question and when the Government cannot relax the age, we are of the view that the results pursuant to Advertisement No.4/2020 dated 19.06.2020 have to be declared, moreso in the light of sub rule (6) of Rule 151 of Tamil Nadu Co-operative Societies rules, 1988, which states that "the Recruitment Bureau for the Revenue District shall complete the recruitment within 180 days of receipt of the report under sub rule (1) and shall communicate the list of selected candidates to the society concerned. It is also pertinent to extract paragraph No.8 of the



counter affidavit of the respondents in the writ petition, wherein it is stated as hereunder:

"8. It is humbly submitted that the process of finalizing the list of selected candidates is under active consideration of the 3<sup>rd</sup> respondent level. The result for interview in respect of Salesman and Packer will be published very shortly. The petitioners have misconstrued the interview order is the appointment letter and approached this Hon'ble Court.

8. Taking note of the statement of the Joint Registrar of Co-operative Societies, Villupuram, at paragraph No.8 of the counter, extracted supra, we are of the view that the results of the interview conducted pursuant to the advertisement/notification No.4/2020 dated 19.06.2020 will have to be published. Such exercise shall be completed within a period of 2 months from the date of receipt of a copy of this order. Before accommodating other candidates, who may be qualified, in 3331 vacancies referred to by the District Recruitment Bureau, Villupuram, results of these 8 candidates shall be declared and they shall be accommodated following the Rules of Reservation and appointed if they otherwise fulfill the requirements as per the advertisement norms and thereafter, the other selected candidates shall be accommodated in the appropriate place. The writ appeal is ordered accordingly. No costs. Connected C.M.P. is closed.

Sd/-  
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

nv

To

1. The Secretary to Government,  
Cooperation, Food and Consumer,  
Protection Department,  
Secretariat,  
Chennai - 600 009.
2. The Registrar of Co-operative Societies,  
NVN Natarasan Maaligai,  
170, EVR Periar High Road,  
Kilpauk, Chennai - 600 010.



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3. The Joint Registrar,  
Villupuram District Recruitment Bureau  
for Co-operative Societies,  
Villupuram Region,  
Master Complex,  
Villupuram - 605 602.

4. The District Collector of Kallakuruchi,  
Kesavalu Nagar, VOC Nagar,  
Kallakuruchi,  
Tamil Nadu - 606 202.

+10ccs to Mr.TN.Buvaneswaran, Advocate, S.R.No.25018  
+1cc to the Government Pleader, S.R.No.25775

W.A.NO.661 OF 2022

PA(CO)  
PBS/29/04/2022