



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM:

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

W.A.No. 1045 of 2022

Dr.S.Kannan

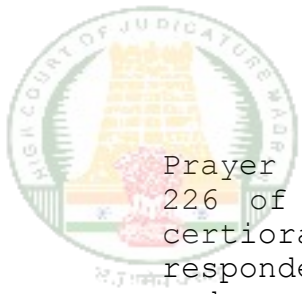
...Appellant

-vs-

1. The Secretary
represented by Union of India
Ministry of Tourism,
No.1, Transport Bhavan,
Parliament Street, New Delhi- 110 001.
2. The Principal/Secretary
Institute of Hotel Management Catering
Technology & Applied Nutrition,
(An Autonomous body, Ministry of Tourism, Govt.
of India) C.I.T. Campus, Taramani P.O.,
Chennai 600 113.
3. The Chairman
Board of Governors
Institute of Hotel Management Catering
Technology & Applied Nutrition,
(An Autonomous body, Ministry of Tourism,
Govt. of India) C.I.T. Campus,
Taramani P.O., Chennai 600 113.
4. The Principal/Secretary,
Institute of Hotel Management Catering
Technology & Applied Nutrition,
(An Autonomous body, Ministry of Tourism,
Govt. of India)
Near MS Building & SKSJI Hostel,
SJP Campus, Bangalore 560 001.

....Respondents

Prayer: Writ Appeal filed under Clause 15 of Letter Patent Act,
to set aside the order passed by the learned Judge in
W.P.No.6400 of 2022 dated 22.03.2022 and consequently allow the
prayer in the Writ Petition.



Prayer in W.P.No.6400 of 2022:Writ Petition filed under Section 226 of the Constitution of India seeking to issue a writ of certiorarified Mandamus calling for the records of the 2nd respondent and quash the e-mail communication dated 25.02.2022 and consequently direct the 2nd respondent to empanel the petitioner for considering the post of 'Principal'.

For Appellant : Mr.P.Ayyamperumal

For Respondents : Mr. K.Subbu Ranga Bharathi
(R1, R2 & R4)
Central Government Counsel
Ms.Mythreye Chandru (R3)
Special Government Pleader

J U D G M E N T

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

The Present Appeal has been preferred against the order of the learned Single Judge dated 22.03.2022 in W.P.No.6400 of 2022, in dismissing the Writ Petition.

2. The case of the Appellant/Writ Petitioner in brief are as follows:

(i) The Writ Petitioner is working as a Principal and Secretary to Governing Body, Food Craft Institute, Mysore, on deputation, which was duly approved by the 4th Respondent. Whiles, the 2nd Respondent invited applications for the post of Principal vide advertisement dated 07.07.2019 and the Writ Petitioner also applied for the same through proper channel vide letter dated 02.08.2019. Apart from that, the Writ Petitioner also sent advance copy of the application to the 2nd Respondent. Subsequently, the Writ Petitioner had enquired through email dated 16.02.2022 with the 2nd Respondent, about the status of his Application and candidature, for which he received a reply through E-mail dated 25.02.2022 that advance copy of the application was not received and only application through proper channel was received only on 07.08.2019. Again, the Writ Petitioner has sent one more email to the 2nd Respondent stating that his application was forwarded through the 4th Respondent on 02.08.2019 itself, apart from advance copy. As there was no response, the Writ Petitioner has filed the Writ Petition in W.P.No.6400 of 2022 seeking to quash the e-mail communication dated 25.02.2022 and also for a direction to the 2nd Respondent to empanel him for the post of Principal. The learned Single Judge vide order dated 22.03.2022 dismissed the Writ Petition, challenging which, the present Writ Appeal is filed.



3. The learned counsel appearing for the Appellant submitted that the 4th Respondent had forwarded the Appellant/Writ Petitioner's application on 02.08.2019 itself along with covering letter dated 02.08.2019 to the 2nd Respondent, which itself is an acknowledgment to prove that the Writ Petitioner's application application was forwarded well before 05.08.2019 and same was annexed in the typed set of papers filed in the Writ Petition, but the learned Single Judge failed to consider the same and dismissed the Writ Petition. He further submitted that the Writ Petitioner has made an application through proper channel well within time and therefore his application/candidature shall not be rejected on technical grounds.

4. The learned counsel appearing for the Respondents 1, 2 and 4 would contend that an advertisement was published on 07.07.2019 for recruitment to the post of Principal, Institute of Hotel Management Catering Technology & Applied Nutrition, Chennai and the last date of submission of the application is 05.08.2019. He further submitted that the Writ Petitioner did not produce any evidence to show that the advance copy was sent to Chennai office directly. He further submitted that the application made through the proper channel was received only on 07.08.2019 and hence the same was rejected. She further submitted that out of 26 applications received, 19 applications have been rejected on the ground that the application has been submitted after the cut-off date and interview has been conducted and no one is appointed till date. He further submitted that if the case of the Writ Petitioner is accepted at this stage, the others who are similarly placed will knock the doors of the Court, which amounts to opening of pandora box, resulting in piling up of cases.

5. Ms. Mythreyee Chandru, learned counsel appearing for the 3rd Respondent submitted that there is no evidence produced by the Writ Petitioner to the effect that the advance copy has been forwarded by the learned counsel for the Writ Petitioner within time. She further submitted that as the selection process has now been completed, the Writ Petitioner have no right to contest and prays for dismissal of this Writ Appeal.

6. Heard both sides. Perused the records.

7. It is not in dispute that the Writ Petitioner submitted the application for the post of Principal and Secretary to Governing Body, Food Craft Institute, Mysore and there is no acknowledgment either for sending the application through the 4th Respondent or for sending the advance copy of the application on 02.08.2019 itself. According to the Respondents,



the same has been received on 07.08.2019 i.e, after cut-off date i.e., 05.08.2019 and the reason for not forwarding the same, within the cut-off date is not known. Merely, non availability of the advance copy is not a ground to reject the case of the Writ Petitioner as the Writ Petitioner has submitted the papers to be routed through the proper channel well within the date stipulated . Hence, this Court is of the view that the Appellant/Writ Petitioner may be given a chance and interview got to be conducted for the Writ Petitioner alone and thereafter on receipt of performance by the competent authorities, a decision can be taken along with other candidates. The grievance of the Respondents that other similarly placed persons may approach this Court for relief cannot be a ground to reject the prayer of the Writ Petitioner. If any other person approaches the Court, their grievance can be considered and in case of delay, it can be rejected on that score and no one can try to place reliance on this order to convince their case that they are similarly placed. They may not be similarly placed as they have not approached the Court immediately and on that score their relief if any, sought similar to this Writ Petitioner can be rejected on the ground of laches.

8. Accordingly, the Appellant/Writ Petitioner shall be called for the interview and interview shall be conducted to the Appellant/Writ Petitioner alone within a period of one month from the date of receipt of a copy of this order. Till such time, the decision already taken in the interview conducted with regard to 7 applicants can be kept in a sealed cover and on receipt of performance of the Appellant by the competent authorities in the interview conducted, a decision can be taken along with other candidates.

9. This Writ Appeal is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

arr

To

1. The Secretary
Union of India
Ministry of Tourism,
No.1, Transport Bhavan,
Parliament Street, New Delhi- 110 001.



WEB COPY

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+1cc to Mr. K.Subbu Ranga Bharathi, Advocate, S.R.No.26322
+1cc to the Government Pleader, S.R.No.26388
+1cc to Mr.P.Ayyamperumal, Advocate, Sr.No.26233 (07/06/2022)

W.A.No. 1045 of 2022

PA[co]
NSK/25/05/2022