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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESEVED ON: 22.04.2022

DELIVERED ON: 28.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.NO.10465 OF 2020
AND WMP.NOS.16548, 16414, 12723 OF 2020

Tamil Nadu Survey Officers Union (Central)
Represented by its General Secretary,
No.266-A, Rice Mills Road, Nallavanpalayam Post,
Tiruvannamalai - 606 603.

.. Petitioner

vs.

1. The Government of Tamil Nadu,
Represented by the
Additional Chief Secretary to Government,
Revenue & Disaster Management Department,
Fort St.George, Chennai-600 009.
2. The Director of Survey & Settlement,
"Survey House", Chepauk, Chennai-600 005.
3. Tamil Nadu Grama Niruvaka Aluvalarkal Sangam,
Rep. By its State General Secretary,
K.Selvan, VAO, TNVAOA Illam,
No.26, Venkatachalam Street,
Triplicane, Chennai-5.
4. G.Suresh
5. K.Mohanarangan
6. R.Alagirisamy
7. C.Kumar
8. R.Rajendran
9. P.Sivasamy

.. Respondents

(R3 to R9 impleaded vide order dated 22.04.2022
in WMP.Nos.16416, 17857 and 18775 of 2020
in W.P.No.10465 of 2020)



Prayer:

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorari to call for the records on the file of the first respondent in G.O.(Ms.) No.173 dated 26.03.2020 and quash the same as illegal, ultra vires and totally without jurisdiction insofar as it has included the Village Administrative Officer in the amendment under Section 13(h) to the Chain Survey and Land Records, Manual, Part II, Chapter I.

For Petitioner
in W.P.No.10465/2020: Mr.V.Raghavachari

For Respondents : Mr.R.Shunmugasundaram,
Advocate General,
assisted by
Mr.T.Chezhiyan,
Additional Govt. Pleader for R1 & R2

: Mr.G.Elanchezhiyan
for R3
: Mr.AL.Gandhimathi
For R4 to R6
: Mr.Niranjan Rajagopalan
for G.R.Associates
for R7 to R9

O R D E R

The petitioner, challenging the impugned Government Order in G.O.(Ms)No.173, Revenue and Disaster Management Department, Survey and Settlement Wing, [SS-II(2)] Section dated 26.03.2020, insofar as it includes the Village Administrative Officer in the amendment under Section 13(h) to the Chain Survey and Land Records Manual, Part II, Chapter I, has filed the present writ petition.

2. The petitioner, in the affidavit filed in support of this writ petition, has averred as follows:

2.1. The petitioner Association is a registered body and is duly recognised by the State of Tamil Nadu, vide G.O.Ms.No.896, P&AR (Per.K) Department dated 26.08.1981. "Survey" works forms an integral part of orderly administration. The Survey and Land Reforms Department is in existence for over 217 years. The said department is technical and manned by persons well equipped with modern instruments and infrastructures to measure the



area/extent of land, division of plots, villages, towns as well as cities.

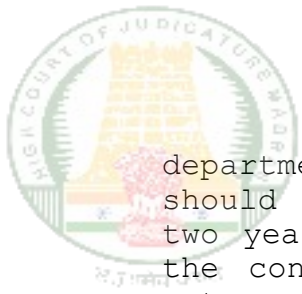
2.2. The post of Firka Surveyor is a promotional post from the post of Field Surveyor and the minimum qualification for appointment as Firka Surveyor is that an individual should have to passed Firka Surveyor Test Paper I & II, conducted by Tamil Nadu Public Service Commission and has to complete probation in the category of Field Surveyor.

2.3. The present controversy pertains to empowerment of Village Administrative Officer in matters concerning transfer of patta. Patta transfer involves two categories i.e., (i) Full field transfer and (ii) Part field transfer. From time immemorial, the procedure is that the Firka Surveyor shall prepare subdivision records based on enjoyment, enquiry, and based on the chain of documents for effective sub division.

2.4. The post of Firka Surveyor is deputed to Taluk Offices for maintaining land revenue records. A Firka Surveyor is obligated to bring post-survey changes in occupation and registry up to date as it is the very basis of revenue administration. The subdivision work is the primary and sole duty of Firka Surveyor in the maintenance wing. The duties and responsibilities have been formulated in various rules, orders etc., and the same had been affirmed by the Director of Survey & Settlement /2nd respondent herein in Circular No.K3/41559/87 (Survey) dated 15.05.1989.

2.5. The first respondent, vide Lr.(Ms.)No.497 dated 26.12.2018, has issued a clarification letter to the second respondent stating that the Village Administrative Officer may also be allowed to participate in the request for measurement of field involving subdivision for transfer of names of the Pattadar during field inspection of Firka Surveyor and the Village Administrative Officer should be given the date of field inspection of the Firka Surveyor. A consequential order has been issued by the first respondent dated 03.01.2019 to the second respondent stating that Tahsildar should consider the objections of the Village Administrative Officers at the time of field inspection and while passing orders, a copy of the Town Survey Land Records should be marked to Village Administrative Officers and the second respondent was directed to give necessary instructions to the concerned in this regard.

2.6. The job of a Surveyor is technical and only qualified persons will be able to handle it. A Firka Surveyor's post is promotional in nature and is equivalent to the post of Assistant Revenue Inspector. The educational and technical qualification required for a Firka Surveyor is that he/she should pass the



departmental exams, i.e., Field Surveyor Test I and II and should have served as a Field Surveyor for a minimum period of two years and should have completed the period of probation. On the contrary, the post of Village Administrative Officer does not require any technical knowledge. The job merely requires them to collect general data, cultivation entries etc., and a pass in SSLC or its equivalent is enough and he/she should have qualified in the written examination and personal interview conducted by Group IV TNPSC.

2.7. The petitioner Union has made various representations to the respondents stressing upon the nature of work of Firka Surveyor and requested the Government not to demean the status, equating with the Village Administrative Officer. It requires expertise in draftmanship and operation of modern scientific equipment, analysis of data downloaded from satellite, theodolite survey etc. A person cannot learn in a month's training. As far as the nature of work is involved, it commences from preliminary cadastral survey, boundary demarcation, traverse survey, computation plotting, field demarcation and measurement, plotting of village map and finishing village map area and computation. The Tamil Nadu Survey and Boundaries Act, 1923 [in short "TNSB Act"] confers certain responsibility upon the survey department. Their work is taken to be final or even conclusive survey, includes all operations identical to the determination, measurement record of boundaries.

2.8. The term 'Survey Officer' is defined under Section 2 (ix) of TNSB Act as one appointed under Section 4 of the Act. The Survey Officer has the power under Section 9 to determine and record undisputed boundary in respect of which no dispute is brought to his notice. Under Section 9(2), every decision of the survey officer under Section 9(1) shall be given in a prescribed manner to the registered holders of land, whose boundaries may be affected by the decision. Likewise, in disputed cases, the survey officer shall determine the boundary and record it in accordance with the decision. Any person affected by the decision under Section 9 or Section 10 may appeal to the prescribed officer in the manner provided under Section 11.

2.9. Without appreciating the limited scope of powers of the Village Administrative Officer, the Government of Tamil Nadu amended the Tamil Nadu Survey and Boundaries Act under Section 13, including the Village Administrative Officer as a part of G.O.Ms.No.173 dated 26.03.2020 under Section 13(h) of the amendment to Chain Survey and Land Records Manual. The exercise of power to modify including the Village Administrative Officer is wholly without authority and the Act does not permit involving the Village Administrative Officers. The subordinate



legislation cannot override the object of the enactment. Challenging the same, the present writ petition has been filed.

3. The second respondent has filed a detailed counter affidavit stating as follows:

3.1. Involving Village Administrative Officers and Licensed Surveyors in the disposal of OPD-ISD applications is intended only for expeditious disposal of the pending applications. For involving VAOs in the Survey works depending upon necessity in future, issuance of amendment to the 'Chain Survey and Land Records Manual - Part II' was required. Therefore, G.O.Ms.No.173, Revenue and Disaster Management Department dated 26.03.2020 came to be issued and accordingly, a training schedule covering all the essential works related to disposing of OPT-ISD applications was issued in the impugned Government Order.

3.2. VAOs are neither thought as replacement to Firka Surveyors nor there is any proposal for engaging them in full time survey works. Further, Sub-Division records prepared by VAOs will be scrutinized by Land Records Draftsman and the field work done by VAOs will be super checked by the Deputy Inspectors of Survey and to some extent by Tahsildars also. Wherever necessary, Firka Surveyors will also be used by the Tahsildars to super check the field measurements done by VAOs in order to ensure accuracy of survey.

3.3. The steps taken by the Government were not with the intention to demean or to ignore the importance of the illustrious services rendered by Firka Surveyors. Land Survey has been integral part of the Revenue Department from time immemorial. Hence the impugned Government Order was issued with an intention to increase manpower so as to expedite the disposal of pending 6.4 lakh OPT-ISD applications. The Madurai Bench of Madras High Court in W.,P.No.7746 of 2020 dated 19.08.2020 has also directed the Government for expeditious disposal of the pending OPT-ISD applications and directed to file a report.

3.4. The current duties of Firka Surveyors and the standard operating procedures for Patta transfers have not at all been changed through the impugned order. The impugned Government Order was issued only to ensure speedy disposal of the pending applications and also to stop the piling up of patta transfer applications in future.

4. Mr.V.Raghavachari, learned counsel for the petitioner made the following contentions/submissions:

(i) The study of surveying involves higher educational qualification and experience to enable



the Village Administrative Officer to discharge the duty of Firka Surveyor is wholly arbitrary, reckless and irresponsible.

(ii) The amendment of the Rules giving one month training and conferring power on the Village Administrative Officer is legally incorrect. The Village Administrative Officer belongs to Group IV Service post under Tamil Nadu Ministerial Service Rules and he cannot aspire to be a Firka Surveyor which involves higher qualification and governed by a different set of Rules.

(iii) Rules cannot be amended to violate Section 4 of the Tamil Nadu Survey and Boundaries Act.

(iv) Village Administrative Officer is not a part of the survey. The subdivision of fields involves very intricate work is technical in nature and Firka Surveyor with such technical knowledge can perform the same and a Village Administrative Officer is not qualified to perform the work of a Firka Surveyor.

(v) The Village Administrative Officer belongs to Revenue Department i.e., different from that of Survey Department. The Village Administrative Officer is not an entry-level authority, but is the custodian of revenue records.

(vi) Even a Licensed Surveyor with higher qualification of Diploma in Civil Engineering are given 3 months training in Survey indicating modern techniques such as verification of the accuracy of survey data, including measurements and calculations adopted at survey sites, preparation and maintenance of sketches, maps, reports and legal descriptions of surveys in order to describe, certify and assume liability for work performed, determination of longitudes and latitudes of important features and boundaries in survey areas, using theodolites, transits, levels and satellite based global positioning system (GPS) etc. Such intricate work, which is technical in nature, cannot be performed by a Village Administrative Officer who is given only a basic survey training for 30 days.

(vii) The very issuance of the impugned Government Order is against the Rules and object of the Statute.



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The learned counsel for the petitioner, in support of his submissions, has placed reliance on the decision in Umesh Chand Vinod Kumar and Others v. Krishi Utpadan Mandi Samiti, Bharthana and another [1983 SCC Online All 638].

5. Mr.R.Shunmugasundaram, learned Advocate General assisted by Mr.T.Chezhiyan, Additional Government Pleader for the respondents 1 and 2 has drawn the attention of this Court to the counter affidavit and the additional counter affidavit of the second respondent and made the following contentions/submissions:

(i) The writ petition itself is not maintainable, as it relates to service matter and the petitioner has no locus standi to challenge the impugned Government Order and further added that the petitioner's service conditions or their right for seniority / promotion will not be affected by virtue of the impugned Government Order.

(ii) It is not correct to say that VAOs are not technically qualified to do survey of lands. The minimum general educational qualifications for both VAO and Firka Surveyor is a pass in SSLC and therefore, there is no question of technical qualification during recruitment. Subsequent to appointment, field Surveyors are provided with Survey Training for 60 days and VAOs are provided with Survey Training for 30 days.

(iii) VAOs are the custodian of land records in village. The measurements and drawing work done by VAOs will be scrutinized by Land Records Draftsman and field work done by VAOs will be supervised by Deputy Inspectors of Survey and Tahsildars and therefore, VAOs by themselves do not issue any Patta transfer orders. Additionally, as per the impugned Government Order, it is proposed to impart refresher survey training to all VAOs for 7 days in addition to the initial training of 30 days along with rich experience they have gained over the years in assisting the Surveyors as and when called for. Hence, they can process the OPD-ISD applications without any difficulties.

(iv) Currently, around 1.5 lakh OPT-ISD applications per month are received. With the current manpower, only around 1.25 lakh OPD-ISD applications could be disposed of per month. The



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remaining 25,000 OPT-ISD applications are adding up to the pendency every month. Since Surveyors are involved in the following other works also, their output could not be increased beyond a limit and hence, pendency of applications keeps on increasing.

(v) Action has been taken to fill up 810 vacancies in the post of Field Surveyor and it will take at least 3 to 6 months to get candidates allotted through TNPSC and it will take 3 more months to impart them survey training before they could be engaged in Online Patta Transfer or any other survey work.

(vi) This Court in W.P.No.7746 of 2020 filed before the Madurai Bench of Madras High Court had issued orders to clear the pendency of OPT applications before December, 2021 and to report compliance as final chance and due to shortage of manpower, the order could not be complied with so far and therefore, prays for vacating the interim order passed by this Court in WMP.No.12723 of 2020 in W.P.No.10465 of 2020 dated 13.08.2020.

The learned Advocate General, in support of his submissions, has placed reliance upon the following decisions:

- (i) Bharathidasan University Backward Class and Most Backward Class Employees Association v. The State of Tamil Nadu and Ors. [Manu/TN/0647/20150 - Order dated 24.03.2015 passed in W.P.(MD)No.3846 of 2012]
- (ii) The Secretary to Government and others v. The Tamil Nadu Higher Secondary Vocational Teachers Welfare Association [W.A.No.1792 of 2017 dated 28.03.2018]

6. Mr.G.Elanchezhiyan, learned counsel for the implead petitioner in WMP.No.16414 of 2020 would submit that the writ petition was filed by the Surveyor Association and sought for relief as against VAOs and without impleading the VAO Association, the Surveyor Association has filed the above writ petition and obtained interim stay until further order against the operation of G.O.(Ms.)No.173, Revenue and Disaster Management Department, Survey and Settlement Wing dated 26.03.2020 and it is not only illegal, but also against law and therefore, writ petition itself is liable to be dismissed on the ground of non-joinder of necessary parties. The learned counsel has relied upon the following decisions:

- (i) Trained Nurses Association of India v. Union of India & Ors. [2016 (1) Supreme 622] ;



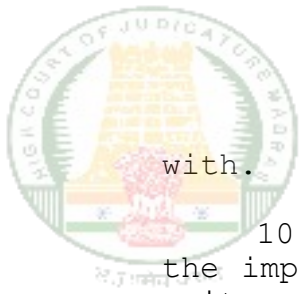
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- (ii) Full Bench Order dated 06.03.1989 in W.A.No.595 of 1983 [Tamil Nadu Panchayat Development Officers Association, Madras v. The Secretary to Government of Tamil Nadu Rural Development and Others]
- (iii) Tamil Nadu Computer SC B.Ed. G.T.Welfare Society v. Higher Sec. School Computer Tech. Assn. & Others [2009 (5) Supreme 421]
- (iv) Vellakoil Vattara Vari Seluthuvor Nalvalvu Sangam v. State of Tamil Nadu [2006 (2) CTC 705].

7. This Court has considered the submissions made and also perused the entire materials placed before it.

8. The primordial contention of the petitioner Association is that without appreciating the limited scope of powers of the Village Administrative Officer, the Government of Tamil Nadu amended the Tamil Nadu Survey and Boundaries Act under Section 13 including the Village Administrative Officer as a part of G.O.Ms.No.173, Revenue and Disaster Management Department dated 26.03.2020 under Section 13(h) of the amendment to Chain Survey and Land Records Manual and such exercise of power to modify including the Village Administrative Officer is wholly without authority and the Act does not permit involving of the Village Administrative Officers in the process of surveying. According to the respondents, the writ petition itself is not maintainable, as it relates to service matter and the petitioner Association has no locus standi to challenge the impugned Government Order and further added that the petitioner's service conditions or their right for seniority / promotion will not be affected vide the impugned Government Order and it is also not correct to say that VAOs are not technically qualified to do survey of lands. It is argued by the learned Advocate General that the minimum general educational qualifications for both VAO and Firka Surveyor is a pass in SSLC and therefore, there is no question of technical qualification during recruitment and subsequent to appointment, field Surveyors are provided with Survey Training for 60 days and VAOs are provided with Survey Training for 30 days.

9. According to the respondents, currently around 1.5 lakhs OPD - ISD applications are received and with the current manpower, only around 1.25 Lakh applications could be disposed of per month and the remaining 25000 OPT-ISD applications are adding up every year and since surveyors are assigned with many works, their out turn could not be increased beyond a limit and hence, in order to reduce the pendency and to comply with the order passed by the Madurai Bench of this Court in W.P.No.7746 of 2020, the present amendment has been brought to Tamil Nadu Survey and Boundaries Act, 1923 and it cannot be found fault



with.

10. According to Niranjan Rajagopalan, learned counsel for the impleading petitioner, as regards the maintainability of the writ petition, the decision relied on by the learned counsel for the petitioner would not apply to the facts of the present case. Even according to the implead petitioner / VAO, the writ petitioner has no locus standi to challenge the impugned Government Order and the post of VAO is less than Firka Surveyor and therefore, it cannot be equated with Firka Surveyor and the mode of recruitment and qualification required for each post is entirely different and the impugned Government Order will not deprive the rights of the petitioner in promotional opportunities and the role of VAO is on subdivision of already existing land parcels and therefore, no prejudice would be caused if the implead petitioners made to undergo training to discharge their duties in respect of subdivision of existing land parcels and therefore, seeks for dismissal of these writ petitions.

11. This Court finds considerable force in the submission made by the learned Advocate General that the impugned Government Order proposing to impart refresher survey training to all VAOs for 7 days in addition to initial training of 30 days along with rich experience they have gained over the years in assisting the Surveyors as and when called for and therefore, they can process OPT-IS applications without any difficulties and it will help in expediting the work and facilitate the public at large in getting their land records properly mutated. Therefore, no prejudice would be caused to the petitioners by affecting their service or promotional opportunities.

12. In respect of maintainability of the writ petition, the learned Advocate General has relied upon the decision in Bharathidasan University Backward Class and Most Backward Class Employees Association v. The State of Tamil Nadu and Ors. [Manu / TN / 0647/2015]. It is useful to extract the following portions of the said order of the learned Single Judge of this Court :

"15. For this proposition, the learned Senior Counsel relied on the following Judgments:

(i) A.B.S.K. Sangh (Rly.) Vs. Union of India and Others [AIR 1981 SC 298], wherein in paragraph 63, it has been held as follows:

"63. A technical point is taken in the counter-affidavit that the 1st Petitioner is an unrecognised association and that, therefore, the petitioner to that extent, is not sustainable. It has to be



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overruled. Whether the petitioners belong to a recognised union or not, the fact remains that a large body of persons with a common grievance exists and they have approached this Court under Article 32. Our current processual jurisprudence is not of individualistic Anglo-Indian mould. It is broad-based and people-oriented, and envisions access to justice through "class actions", "public interest litigation" and "representative proceedings". Indeed, little Indians in large numbers seeking remedies in courts through collective proceedings, instead of being driven to an expensive plurality of litigations, is an affirmation of participative justice in our democracy. We have no hesitation in holding that the narrow concept of "cause of action" and "person aggrieved" and individual litigation is becoming obsolescent in some jurisdictions. It must fairly be stated that the learned Attorney-General has taken no objection to a non-recognised association maintaining the writ petitions."

(ii) State Bank of Bikaner and Jaipur Vs. State Bank of Bikaner and Jaipur Employees [CDJ 1991 MHC 601 : 1993 (1) LLJ 57], wherein in paragraph 9, it has been held as follows:

"9. Mandamus cannot be denied on the ground that the duty to be enforced is not imposed by the statute. Commenting on the development of this law, Professor De Smith states : "to be enforceable by mandamus a public duty does not necessarily have to be on imposed by statute. It may be sufficient for the duty to have been imposed by charter, common law, custom or even contract. (Judicial Review of Administrative Act 4th Ed. p.540). We share this view. The judicial control over the fast expanding maze of bodies affecting the rights of the people should not be put into watertight compartment. It should remain flexible to meet the requirements of variable circumstances. Mandamus is a very wide remedy which must be easily available 'to reach injustice wherever it is found'. Technicalities should not come in the way of granting that relief under Art. 226. We, therefore, reject the contention urged for the appellants on the maintainability of the writ petition."

(iii) Andhra Pradesh Scheduled Tribes Vs. Aditya Pratap Bhanj Dev and Others [2001 (6) ALD 582 : 2001 (6) ALT 433], wherein in paragraph 25, it has been held as follows:



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"25. In WADHWA'S case (supra), fraud on the Constitution was alleged against State of Bihar in promulgating and re-promulgating Ordinances. The Supreme Court observed that every citizen has a right to be governed by validly made laws and when fraud on the Constitution is committed every citizen can complain to a Constitutional Court. In view of this, it is futile to contend in a matter of this nature that a ST. Welfare Association has no locus standi to approach this Court. We should not lose sight of the constitutional scheme whereunder the role of protecting the citizens including SCs and STs from invasion of their rights is assigned to the Courts. Accordingly, we hold that the case involves public interest and the petitioner-association has locus standi to file this writ petition. Point No.1 is answered accordingly."

(iv) The Managing Director, Tamil Nadu Water Supply and Drainage Board and another Vs. Tamil Nadu Kudineer Vadikal Variya Oozhiyar Sangam [2010 (2) CWC 740 (DB)], wherein in paragraphs 3 and 5, it has been held as follows:

"3. The learned Counsel appearing for the Appellant has relied upon the decision in Tamilaga Asiriyar Koottani, represented by the General Secretary, V. Annamalai Vs. The Government of Tamil Nadu, represented by its Secretary, 2005 (3) MLJ 252. In the said decision, direction given to fill up the posts of headmasters in the upgraded schools from headmasters in Elementary Schools was challenged by the Association for teachers wherein the Hon'ble First Bench of this Court has held as follows:

"15. In our opinion, if any Educational Institution or headmasters or teacher is aggrieved by the impugned G.O.Ms.No.13, dated 9.2.2005, they can file a Writ Petition in this Court challenging the same, but the Appellant- Association had no locus standi in the matter. It cannot be said that the Educational Institutions or headmasters are so poor that they are unable to approach this Court. If any particular Educational Institution or headmaster has a grievance against the impugned G.O.Ms.No.13, dated 9.2.2005, it is for such person to file a Writ Petition or Writ Appeal, and not for any Association. The Writ Appeal is dismissed on the ground of lack of locus standi. The Writ Petition is dismissed for the same reason. W.A.M.P.No.1384 of 2005 is dismissed."



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5. In such view of the matter, in our considered opinion, the order of the learned Single Judge cannot be sustained on the ground of maintainability of the Writ Petition by the association of the employees. It is no doubt true that as and when the individual employees are affected by any order passed, it is for them to work out their remedies in the manner known to law."

(v) Dr.D.C.Wadhwa and others Vs. State of Bihar and Others [AIR 1987 SC 579], wherein in paragraph 3, it has been held as follows:

"3. The rule of law constitutes the core of our Constitution and it is the essence of the rule of law that the exercise of the power by the State whether it be the Legislature or the Executive or any other authority should be within the constitutional limitations and if any practice is adopted by the Executive which is in flagrant and systematic violation of its constitutional limitations, Petitioner No.1 as a member of the public would have sufficient interest to challenge such practice by filing a writ petition and it would be the constitutional duty of this Court to entertain the writ petition and adjudicate upon the validity of such practice. We must therefore reject the preliminary contention raised on behalf of the respondents challenging the locus of the petitioners to maintain these writ petitions."

(vi) Tamil Nadu Co-operative Subordinate Officers' Association Vs. Government of Tamil Nadu and Others [2003 (3) CTC 193], wherein in paragraphs 11 and 12, it has been held as follows:

"11. With regard to the first objection, viz., the petitioner/association neither have locus standi nor any cause of action, it is trite law that technical flaw will not be allowed to defeat the cause the petitioner seeks to justify. Broader conception of locus standi and liberal approach to procedural technicalities has obtained the seal of the Apex Court long back, vide *Mumbai Kamgar Sabha Vs. Abdulbhai Faizullabhai*, AIR 1976 SC 1455. This Court is concerned only on the substance of the matter and not the formal defects. Procedural prescriptions are handmaids, not mistresses, of justice and failure of fair play is the spirit in which Courts must view processual deviances. Representative actions and the broadened forms of legal proceedings are in keeping with the current accent on justice to the common man



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and a necessary disincentive to those who wish to bypass the real issues on the merits by suspect reliance on peripheral, procedural shortcomings. Article 226 of the Constitution of India, viewed in wider perspective, may be amenable to ventilation of collective or common grievances, as distinguished from assertion of individual rights, although the traditional view, backed by precedents, has opted for the narrower alternative. Public interest is promoted by a spacious construction of locus standi in our socio-economic circumstances and conceptual latitudinarianism permits taking liberties with individualisation of the right to invoke the higher Courts where the remedy is shared by a considerable number, particularly, when they are weak. Less litigation, consistent with fair process, is the aim of adjectival law."

12. The learned Advocate General, of course, pointed out that the Government has not even furnished with the names of the members of the petitioner associations. In my considered opinion, in the matter of this nature, where the rights of numerous Government servants is alleged to have been prejudiced, it may not be proper for this Court to frustrate the claim of the Government Servants, merely on the ground of vagueness, assuming it exists, accepting the subversive technicality."

(vii) Umesh Chand Vinod Kumar and Others Vs. Krishi Utpadan Mandi Samiti, Bharthana and another [AIR 1984 ALLAHABAD 46], wherein in paragraphs 20 and 45, it has been held as follows:

"20. To summarise, the position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement at its own rights--

(1) In case members of such an association are themselves unable to approach the court by reason of poverty, disability or socially or economically disadvantaged position "little Indians".

(2) In case of a public injury leading to public interest litigation provided the association has some concern deeper than that of a way-farer or a busybody i.e. it has a special interest in the subject-matter.

(3) Where the rules or regulations of the association specifically authorise it to take legal proceedings on behalf of its members, so that any order passed by



the court in such proceedings will be binding on the members.

45. Our answer to the referred questions is as follows:-

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A.1- The position appears to be that an association of persons, registered or unregistered, can file a petition under Article 226 for enforcement of the rights of its members as distinguished from the enforcement of its own rights-

(1) In case members of such an association are themselves unable to approach the Court by reason of poverty, disability or socially or economically disadvantaged position ("little Indians").

(2) In case of a public injury leading to public interest litigation; provided the association has some concern deeper than that of a way-farer or a busybody i.e., it has a special interest in the subject matter."

(viii) West Bengal Head Masters' Association and another Vs. Union of India and Others [AIR 1983 CALCUTTA 448], wherein in paragraph 16, it has been held as follows:

"16.The second objection is directed against the locus standi of the appellants -- West Bengal Head Masters' Association and the West Bengal Guardians' Association. The appellant No. 1 is an Association registered under the Societies Registration Act. It is contended on behalf of the Board that these two Associations are not affected by the impugned revised syllabus, and that they cannot have any legal right. It is difficult to accept such a contention. Both these Associations are interested in the education of the boys and girls of the State and, if according to them, the syllabus has not been properly prepared they have, in our opinion, locus standi to file a writ petition. In our view, any person interested in education may come to the High Court complaining about any irregularity or illegality committed by a statutory body entrusted with the education of children and seeking relief against such irregularity or illegality. There is, therefore, no substance in the contention of the respondents and it is rejected."

16. Per contra, the learned Special Government Pleader appearing for the second respondent argued that the petitioner has no locus standi to maintain the writ petition. Even after enlargement of scope of



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locus standi, the issue raised by the petitioner does not enable the petitioner to file the writ petition. An Association has no right to maintain a writ petition in service matters.

17. In support of his submission, the learned Special Government Pleader relied on the following Judgments:

(i) Mahinder Kumar Gupta and Others Vs. Union of India [1995 (1) SCC 85], wherein in paragraph 6, it has been held as follows: "6. Under these circumstances, we find no arbitrariness or unjustness in prescription of the guidelines for the eligibility criteria. The second writ petition stands liable to be dismissed on the sole ground that the Association cannot file a writ petition as it has no fundamental right under Article 32 of the Constitution. One of the petitioners/appellants has claimed as having partnership, but the details thereof have not been given. We, therefore, dismiss the appeal as well as the writ petitions with costs quantified at Rs.20,000 each."

(ii) Tamilaga Asiriyar Koottani Vs. The Government of Tamil Nadu and Others [2005 Writ L.R. 389], wherein in paragraph 15, it has been held as follows:

"15. In our opinion, if any Educational Institution or Headmaster or Teacher is aggrieved by the impugned G.O.Ms.No.13, dated 9.2.2005, they can file a Writ Petition in this Court challenging the same, but the Appellant- Association had no locus standi in the matter. It cannot be said that the Educational Institutions or Headmasters are so poor that they are unable to approach this Court. If any particular Educational Institution or Headmaster has a grievance against the impugned G.O.Ms.No.13, dated 9.2.2005, it is for such person to file a Writ Petition or Writ Appeal, and not for any Association. The Writ Appeal is dismissed on the ground of lack of locus standi. The Writ Petition is dismissed for the same reason. W.A.M.P.No.1384 of 2005 is dismissed."

(iii) Madras University Most Backward Class (MBC) Staff Welfare Association Vs. The Chancellor of Alagappa University and Others [W.P.(MD) No.11593 of 2012, dated 28.08.2012], wherein in paragraphs 2 and 3, it has been held as follows:

"2. In view of the law laid down by this Court in Tamil Nadu Public Works Department and Highway



Employees Union Versus State of Tamil Nadu and Other [W.P.No.41633 of 2006, decided on 23.11.2011) the Writ Petition in service matter on behalf of association is not competent.

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3. This order shall not prevent the members of the association to get their grievance addressed either by filing a joint or separate Writ Petition if so advised. Dismissed. No costs. Consequently, connected M.Ps. are closed."

18. A careful reading of all the above Judgments, makes it clear that an Association either registered or unregistered, can file a writ petition under Article 226 of the Constitution of India on behalf of its members taking the cause of its members only if,

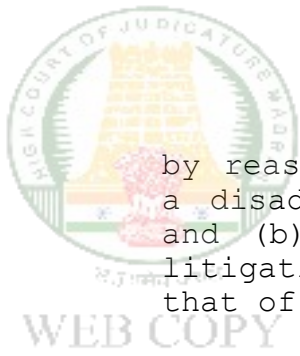
(a) the members themselves are unable to approach the Court by reason of poverty, disability or socially or economically in a disadvantaged position, who are termed as "Little Indians"; and

(b) in case of public injury leading to public interest litigation provided the Association has some concern deeper than that of a way-farer or a busy body.

19. The petitioner has filed the present writ petition on behalf of its members. The members of petitioner Association are employees of the second respondent University. Therefore, they cannot be termed as poor, disabled or disadvantaged to approach this Court individually. The contentions of the learned counsel for the respondents that the members of the petitioner Association are not aggrieved persons; the respondents 4 to 19 were appointed in the quota meant for direct recruitment; the communal roster was followed; the respondents 4 to 9 were appointed following the Regulations and procedure laid down by the Statutes, the petitioner cannot maintain the present writ petition in service matter, have considerable force. (emphasis supplied)

20. The three judgments relied on by the learned Special Government Pleader appearing for the second respondent are squarely applicable to the facts of the present case."

A careful reading of all the above Judgments, makes it clear that an Association either registered or unregistered, can file a writ petition under Article 226 of the Constitution of India on behalf of its members taking the cause of its members only if, (a) the members themselves are unable to approach the Court



by reason of poverty, disability or socially or economically in a disadvantaged position, who are termed as "Little Indians"; and (b) in case of public injury leading to public interest litigation provided the Association has some concern deeper than that of a way-farer or a busy body.

13. In the judgment dated 28.03.2018 in W.A.No.1792 of 2017 [The Secretary to Government, Chennai-9 and Others v. The Tamil Nadu Higher Secondary Vocational Teachers Association], the Hon'ble Division Bench has observed that "There is no question of entertaining the writ petition at the instance of the Association in a Service Matter and directing the Government to grant the benefits to the members of the Association. Nothing prevented the employees who worked as Vocational Instructors to approach the Court for appropriate relief. Since it is a service matter, the concerned employee has to approach the Court. There is no locus standi for the Association to approach the Court for the purpose of giving service benefits to its members..."

14. Admittedly, in the case on hand, the present writ petition has been filed on behalf of its members and the members of the petitioner's Association are employees of the Survey & Settlement Department and they cannot be presumed to be poor, disabled or disadvantaged to approach this Court individually. In the light of the aforesaid decision of the learned Single Judge of this Court in Bharathidasan University Backward Class and Most Backward Class Employees Association (cited supra), and the Division Bench judgment cited supra, the writ petition which pertains to service matter, is not maintainable.

15. In the light of the above discussions and following the decision of the Division Bench of this Court cited supra the contention of the petitioner cannot be countenanced and this Court is of the view that the petitioner Association has no locus standi to challenge the impugned Government Order and therefore, the present writ petition is not maintainable and deserves dismissal.

16. In the result, this Writ Petition stands dismissed. No costs. Interim Order already granted stands vacated and consequently, connected miscellaneous petitions are also dismissed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

Jvm



To

1. The Government of Tamil Nadu,
Represented by the
Additional Chief Secretary to Government,
Revenue & Disaster Management Department,
Fort St.George, Chennai-600 009.

2. The Director of Survey & Settlement,
"Survey House", Chepauk, Chennai-600 005.

+2ccs to Mr.V.Raghavachari, Advocate, S.R.No.30168, 29606
+1cc to Mr.G.Elanchezhiyan, Advocate, S.R.No.30029

W.P.No.10465 of 2020

SSV(CO)
PM/12/05/2022