



Order dated 14.10.2022 in
W.P.No.25203 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 14.10.2022

Coram:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.No.25203 of 2022
and
W.M.P.No.24147 of 2022

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S.Balasubramanian

.. Petitioner

Vs.

1. The Registrar of Co-operative Societies,
NVN Natesan Maaligai,
170, EVR Periar High Road,
Kilpauk, Chennai-600 010.

2. The Chairman/Joint Registrar of Co-operative Societies,
Tiruvannamalai District Recruitment Bureau for
Co-operative Societies,
Tiruvannamalai Region,
Master Complex,Villupuram-605 602.

3. The Managing Director,
Arani Town Bank,
Tiruvannamalai Branch.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus to call for the



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records of the third respondent, dated 28.08.2022 and quash the same and consequently direct the respondents to issue appointment order to the petitioner in pursuance of the allotment order issued by the second respondent, dated 25.02.2021.

For petitioner : Mr.L.P.Shanmugasundaram

For respondents: Mr.R.U.Dinesh Raj Kumar, Addl.G.P.

ORDER

This Writ Petition is filed challenging the order dated 22.08.2022 passed by the third respondent, rejecting the petitioner's request for issuance of appointment order pursuant to the selection for the post of Office Assistant through allotment order, dated 25.02.2021 issued by the second respondent on the ground that the petitioner was not possessing Diploma in Co-operative Management at the time of submission of the application seeking appointment to the post of Office Assistant.

2. The petitioner got successfully selected as an Assistant pursuant to the Recruitment Notification dated 12.03.2020 issued by the second



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respondent. The allotment order was issued in his favour by the second respondent pursuant to his provisional selection on 25.02.2021. The petitioner has also paid security deposit on 01.03.2021 to the respondents to enable him to get the appointment order. The petitioner has also complied with the other formalities required under the selection process, excepting for the fact that he did not produce the Diploma Certificate in Co-operative Management immediately after issuance of the allotment order, dated 25.02.2021 by the second respondent. The petitioner obtained the said Diploma Certificate only on 04.07.2022. On receipt of the said Diploma Certificate, he gave a representation to the third respondent to issue appointment order, and along with his application, he has also enclosed the Diploma Certificate obtained by him. Since the representation was not considered, the petitioner filed W.P.No.21050 of 2022 before this Court and by order dated 17.08.2022, this Court issued direction to the respondents to consider the petitioner's representation on merits and in accordance with law. Pursuant to the said direction of this Court, the impugned order dated 22.08.2022 came to be passed by the third respondent rejecting the petitioner's request for issuance of the appointment order on the ground that

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at the time of submission of his application seeking appointment to the post of Assistant, he did not possess the requisite qualification, namely he did not hold a Diploma Certificate as stated supra. The petitioner has challenged the order dated 22.08.2022 on the following grounds:

(i) There is no requirement for the petitioner under the Notification dated 12.03.2020 that at the time of submission of the application, he should possess the Diploma in Co-operative Management. According to him, it is sufficient if after the allotment order, he produces the Diploma Certificate for getting appointment order issued by the third respondent.

(ii) The petitioner for no fault of his, could not write the subsequent examination after 2019 for completing his Diploma course. According to him, he was able to complete the Diploma course only in the year 2022, even though at the time of submission of his application seeking for appointment to the post of Assistant, he was doing his final year Diploma course, for which he has also produced the Bona-fide Certificate, which has also been accepted by the third respondent.

3. A counter affidavit has been filed by the respondents denying the



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contentions of the petitioner. According to them, the production of Diploma Certificate in Co-operative Management by the petitioner at the time of submission of his application seeking for appointment to the post of Assistant, is mandatory. Having not produced the same along with his application, applying for the post and having produced the same only in the year 2022, the third respondent has rightly rejected the petitioner's representation seeking issuance of appointment order. According to the respondents, only as per the Recruitment Notification, the impugned order has been passed by the third respondent, rejecting the petitioner's representation.

4. Heard both sides and perused the materials available on record.

5. Learned counsel for the petitioner drew the attention of this Court to the Recruitment Notification and in particular, he referred to the relevant clause relating to the requirement of the petitioner to produce the Diploma Certificate in Co-operative Management and submitted that there is no time limit stipulated under the clause for production of the Diploma Certificate by

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the petitioner.
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6. Learned counsel for the petitioner also drew the attention of this Court to the Circular of the Registrar of Co-operative Societies, dated 18.07.2013 in Circular No.29 of 2013 and submitted that as per the said Circular, it is clear that it is sufficient for a person not possessing the Diploma Certificate, to produce the same within a period of two years.

7. Learned counsel for the petitioner relied on a judgment of the Supreme Court, dated 28.11.2014 in S.L.P.(C).CC.No.17977 of 2014 in the case of "SAT 383 Tamil Nadu State Primary Agricultural Co-op. Bank Employees Assn. Vs. K.B.N.Karthika and others", and submitted that as seen from the aforesaid decision of the Supreme Court, it is clear that the production of Certificate in Diploma in Co-operative Management is a condition precedent only for issuance of the appointment order.

8. Relying upon the aforesaid decision of the Supreme Court/Circular/Recruitment Notification, learned counsel for the petitioner



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submitted that by total non-application of mind to the aforementioned documents, the third respondent has passed the impugned order rejecting the petitioner's representation requesting for issuance of the appointment order to the post of Assistant in his favour.

9. Per contra, the learned Additional Government Pleader appearing for the respondents reiterated the contents of the counter affidavit filed by the second respondent and contended that the petitioner ought to have submitted the Diploma Certificate immediately after issuance of the allotment order, but whereas, he has submitted the same only in the year 2022, and therefore, the petitioner's representation requesting for issuance of appointment order to the post of Assistant, was rightly rejected under the impugned order.

10. Admittedly, the petitioner is now possessing the Diploma Certificate, which is the pre-requisite for him to get appointed as Assistant as per the Recruitment Notification dated 12.03.2020. The relevant clause which deals with the requirement of production of Diploma Certificate reads

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as follows:

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"2019-20 ஆம் ஆண்டில் தமிழ்நாடு
கூட்டுறவு ஒன்றியத்தால் நடத்தப்படும்
கூட்டுறவு மேலாண்மை நிலையங்களில்
கூட்டுறவு பயிற்சி பயின்று வரும்
மாணவர்களும் விண்ணப்பிக்கலாம்.
இத்தேர்வுக்கு விண்ணப்பிக்கும் இவர்கள்
கூட்டுறவு பயிற்சியினைப் பெற்று
வருவதற்கான சான்றிதழினை (Bonafide
Certificate) சம்மந்தப்பட்ட கல்வி
நிறுவனத்திடமிருந்து பெற்றுச் சமர்ப்பிக்க
வேண்டும்.

கூட்டுறவு பயிற்சியினை வெற்றிகரமாகப்
படித்து முடித்ததற்கான சான்றிதழைச்
சமர்ப்பித்த பின்னரே இவர்களுக்குப் பணி
நியமன ஆணை வழங்கப்படும்."

11. As seen from the aforementioned clause, there is no time limit stipulated for production of the Diploma Certificate by any candidate applying for the subject post. Admittedly, the petitioner was doing his final



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year in the Diploma course when he applied for the post of Assistant as per the Recruitment Notification, dated 12.03.2020. He has also produced the Bona-fide Certificate to the respondents to prove that he was doing his final year Diploma Course. The third respondent has also accepted his application and has also permitted him to write the examination. He has also successfully written the examination and also attended the interview and thereafter, he was provisionally selected, as seen from the allotment order dated 25.02.2021 issued by the second respondent.

12. It is also contended by the learned counsel for the petitioner that the petitioner was also working for few days pursuant to the issuance of the allotment order. But however, thereafter, he was not allowed to work. The petitioner has given satisfactory reasons in the reply affidavit filed before this Court to the counter affidavit, for being unable to submit the Diploma Certificate immediately after the issuance of the allotment order. According to him, due to Covid-19 Pandemic situation, the examinations were re-scheduled and he was not aware of the same and that is the reason why there was delay in obtaining Diploma Certificate. Immediately on receipt of

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the Diploma Certificate, he has submitted the same to the third respondent, and therefore, the appointment order ought to have been issued in his favour.

13. The Supreme Court, in S.L.P.(C).CC.No.17977 of 2014 (cited supra) relied on by the learned counsel for the petitioner, observed that the production of Co-operative Training Certificate is a pre-condition only for appointment order and not for selection. In the case on hand, the petitioner has been provisionally selected for the post of Assistant after undergoing the written examination and oral interview. The allotment order has also been issued in his favour.

14. As seen from the impugned order, the aforementioned factors have not been taken into consideration by the third respondent, but only on the ground that the petitioner has not submitted the Diploma Certificate, his representation requesting for issuance of appointment order, had been rejected.

15. This Court is of the considered view that the third respondent has



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not applied his mind to the relevant clause in the recruitment Notification, dated 12.03.2020 relating to the requirement of Diploma Certificate, as on a prima-facie consideration, it is clear that the said clause has not stipulated any time limit for any successful candidate to produce the Diploma Course certificate.

16. Learned counsel for the petitioner has relied on a decision of the Supreme Court, dated 28.11.2014 in S.L.P.(C).CC.No.17977 of 2014 (cited supra), from which, according to the learned counsel, it could be inferred that there is no time limit for the petitioner to submit the Diploma Certificate and as the Supreme Court observed that only for issuance of the appointment order, the Diploma Certificate is mandatory.

17. Since the third respondent has not considered the aforementioned factors/authorities, this Court is of the considered view that by total non-application of mind, the impugned order has been passed by the third respondent, rejecting the petitioner's representation requesting for issuance of appointment order in his favour.

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18. For the reasons stated above, the impugned order dated 22.08.2022 passed by the third respondent has to be quashed. The petitioner has already given a representation to the first respondent subsequent to the passing of the impugned order. Learned counsel for the petitioner, on instructions, submitted that the third respondent is also biased against the petitioner. No prejudice would be caused to the respondents if the representation of the petitioner seeking for issuance of the appointment order in his favour, is considered by the first respondent, even though this Court is not accepting the contention of the petitioner that the third respondent is biased, as only after hearing him, any finding can be given by this Court with regard to bias.

19. In the result, the impugned order dated 28.08.2022 passed by the third respondent is hereby quashed and the matter is remanded to the first respondent for fresh consideration on merits and in accordance with law, based on the petitioner's representation, dated 01.09.2022, in the light of the above observations made by this Court, within a period of 12 weeks from

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the date of receipt of a copy of this order.

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20. With the above observations/direction, this Writ Petition is disposed of. There shall be no order as to costs. Consequently, the miscellaneous petition is closed.

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To

1. The Registrar of Co-operative Societies,
NVN Natesan Maaligai,
170, EVR Periar High Road,
Kilpauk, Chennai-600 010.
2. The Chairman/Joint Registrar of Co-operative Societies,
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3. The Managing Director,
Arani Town Bank,
Tiruvannamalai Branch.



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