



W.P.No.30559 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2022

CORAM :

THE HON'BLE MR.T.RAJA, ACTING CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

W.P.No.30559/2022 and WMP.No.29986/2022

Karuppiah

..

Petitioner

vs.

1. The Principal Secretary,
Personal & Administration Reforms Department,
St. George Fort,
Chepauk, Chennai-600 009.
2. The Government of Tamil Nadu
rep. by its Secretary,
Home Department,
Secretariat, St. George Fort,
Chepauk, Chennai-600 009.
3. The Secretary,
Adi Dravidar & Tribal Welfare Department,
St. George Fort,
Chepauk, Chennai-600 009.



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4. The Chairman,
Tamil Nadu Public Service Commission,
No.1, Commercial Tax Annexure Building,
Chennai-600 006.
5. The Chairman,
Teachers Recruitment Board,
4th Floor, E.V.K. Sampath Maligai,
College Road, Chennai-600 006.
6. The Chairman,
Tamil Nadu Medical Service Recruitment Board,
7th Floor, D.M.S. Building,
No.359, Anna Salai, Chennai-600 006.
7. The Director,
Directorate of Employment & Training,
Alandur Road, Thiru-Vi-Ka Industrial Estate,
Guindy, Chennai-600 032.

.. Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Mandamus, directing the respondents to fill up the backlog vacancies identified by the Government of Tamil Nadu vide G.O.Ms.No.46, Adi Dravidar and Tribal Welfare (TDL-2) Department dated 23.09.2016, G.O.Ms.No.32, Adi Dravidar and Tribal Welfare (TDL-2) Department dated 20.04.2022 and Annexure given through RTI reply by the 1st respondent in the year 2012 regarding consolidate statement of shortfall



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of backlog vacancies within a time limit that may be fixed by this Court.

For Petitioner :: Mr.R.Jayaprakash

For Respondents :: Mr.R.Muthukumar,
State Government Pleader for
R1 to 3

Mr.R.Neelakandan, AAG VIII
assisted by
Mr.C.Kathiravan,
Standing Counsel for R5

ORDER

(Order of the Court was made by the Hon'ble Acting Chief Justice)

Seeking to issue a Writ of Mandamus, directing the respondents to fill up the backlog vacancies identified by the Government of Tamil Nadu vide G.O.Ms.No.46, Adi Dravidar and Tribal Welfare (TDL-2) Department dated 23.09.2016, G.O.Ms.No.32, Adi Dravidar and Tribal Welfare (TDL-2) Department dated 20.04.2022 and Annexure given through RTI reply by the 1st respondent in the year 2012 regarding consolidated statement of shortfall of backlog vacancies, within a time limit stipulated by this Court, this Writ Petition has been filed.



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2. When Mr.R.Jayaprakash, learned Counsel for the petitioner commenced his arguments, seeking leave of the Court, Mr.Neelakandan, learned Additional Advocate General VIII assisted by Mr.C.Kathiravan, learned Standing Counsel appearing for the 4th respondent, objecting the maintainability of the writ petition relied on three orders passed by this Court holding that no writ petition under Article 226 of the Constitution of India in the guise of Public Interest Litigation shall be entertained in the matters relating to the service conditions or service matters in the light of the observation of the Apex Court in **Seema Dhamdhare v. State of Maharashtra** reported in **(2008) 1 MLJ 489 (SC)**.

3. A perusal of the short order reported in **2014 SCC Online Mad 10317 (N.Kanagasabai vs. The Registrar General, High Court, Madras)** reveals that while dismissing the writ petition filed for issuance of writ of declaration to declare the Proviso (1) to Sub Rule (2) of Madras High Court Service Rule 6 and all the appointments and promotions made therein as illegal, ultravires and illogical, as a public interest litigation, it has been held



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thus:

"We are not inclined to entertain this petition as a Public Interest Litigation filed by a practising advocate of this Court seeking to assail Madras High Court Service Rules. If there is any person governed by the Rules who is aggrieved by the same, it is always open to him to assail those rules in accordance with law. Such a Public Interest Litigation in a service matter, in any case, is not maintainable, in view of the observations of the Hon'ble Supreme Court in Seema Dhamdhare v. State of Maharashtra reported in (2008) 1 MLJ 489 (SC).

2. Writ Petition stands dismissed. No costs. Consequently, M.P.No.1 of 2014 also stands dismissed."

4. Again placing reliance on yet another decision of this Court in **Tamil Nadu Arasu Nedunchalaidhurai rep. by its State General Secretary vs. State of Tamil Nadu rep. by its Secretary to Government, Highways and Minor Ports Department, Secretariat and others** reported in **2022 SCC OnLine Mad 916**, learned Additional Advocate General submitted that in this case also, when the petitioner therein prays for issuance of a Writ of Mandamus to direct the respondent No.3 to take all steps to implement the G.O.Ms.No.46, Adi Dravidar and Tribal Welfare Department (PM. (2)) dated 23.09.2016 issued by the 2nd respondent therein



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with a consequential direction to the respondent Nos.4 to 31 to comply the proceedings of the 3rd respondent department in Memorandum No.10443/Nir.1(2)/2014 in the 3rd respondent department within a time fixed as per the representation dated 09.10.2020 made by the petitioner Society, the said Writ Petition was also dismissed as not maintainable as the said writ petition relates to service matter.

5. In support of his contention, learned Additional Advocate General has also placed reliance on a decision of this Court in **Abdullah v. State of Tamil Nadu, rep. by the Chief Secretary to Government, Agricultural Department and others** reported in **2018 SCC OnLine Mad 6455 : (2019) 1 CTC 88** wherein it has been held thus:

"16.The main issues for consideration in these writ petitions are as follows:-

(1)Whether the present writ petitions have been filed in accordance with the Rules framed by this Court to regulate the Public Interest Litigation to be filed under Article 226 of the Constitution of India?

(2)Whether the present writ petitions are filed pertaining to the service matters and if so, whether the Public Interest Litigation is maintainable in Service Matters?



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(3).Whether the present writ petitions are liable to be rejected due to the unsatisfactory conduct of the petitioner?

...

18.Point No.2 :

18.1. Whether Public Interest Litigation is maintainable in service matters, that too, by a stranger?

18.3. It is pertinent to point out that already the petitioner filed CrI.O.P.(MD)No.19985 of 2014 to register a case based on his complaint dated 01.11.2014. This Court, by order dated 09.01.2015 directed the respondents therein to file action taken report on or before 11.03.2015. Consequent to the order passed by this Court, the Vigilance and Anti Corruption Department, Thiruchirappalli filed a case against the fourth respondent and others in Crime No.2 of 2015. Further, the petitioner also filed one more CrI.O.P.(MD)No.15532 of 2016 to transfer the investigation in Crime No.2 of 2015 to Central Bureau Investigation. In the said petition, this Court fixed 12 months time to complete the investigation. However, the petitioner came before this Court by way of present Public Interest Litigation to take action against the fourth respondent. Against fourth respondent a case in Crime No.2 of 2015 was registered and this Court granted 12 months time to complete the investigation to the Vigilance and Anti Corruption Department vide its order dated 19.01.2018. When the investigation is pending, the petitioner has filed this writ petition to take action against the fourth respondent vide, his representation dated 07.02.2008, wherein the petitioner prayed for, to stop any promotion, which clearly amount interfering into the fourth respondent's service matter.

18.4.The writ petition in W.P.(MD)No.12648 of 2018 is



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filed to transfer the fourth respondent from the present place to any other place. Therefore, this also clearly comes under the purview of the service matter of the fourth respondent. The Hon'ble Supreme Court in catena of cases decided that Public Interest Litigation cannot be maintainable in a service matter.

18.5. Admittedly, the petitioner has given a representation dated 01.11.2014 before the Vigilance and Anti Corruption, Thirichirappalli against the fourth respondent. On the basis of the said representation, Crl.O.P.(MD)No.19985 of 2014 was filed to register the complaint and the same was ordered as prayed for. Accordingly, a case was registered in Crime No.2 of 2015 against the fourth respondent. Thereafter, the petitioner filed one more Crl.O.P.(MD)No.15532 of 2016 for transfer of the investigation and the same was ordered directing the respondents therein to complete the entire investigation within twelve months. In the meantime, in order to interfere with the affairs of the respondents, particularly with the fourth respondent in his service matters, he gave two representations dated 07.02.2018 and 28.04.2018 to take appropriate action against the fourth respondent and filed W.P.(MD)Nos.4151 and 12648 of 2018 for the relief stated therein. So even on merits of the case also without completing the investigation, it is not possible to take action against the fourth respondent either by virtue of departmental action or to transfer the petitioner. Furthermore, the prosecuting authority, i.e. the Vigilance and Anti Corruption Department, Thirichirappalli, also filed report and has not expressed anything with regard to the tampering of the witnesses. In such circumstances, interfering with the service matters and seeking prayer to transfer the investigation by the petitioner is unwarranted.



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18. The Hon'ble Supreme Court in the matter of ASHOK KUMAR PANDEY v . STATE OF WEST BENGAL (2004 (3) S C C 349) , held at page Nos.358 & 359 as follows:-

“As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with large number of so called public interest litigations where even a minuscule percentage can legitimately be called as public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in large number of cases, yet unmindful of the real intentions and objectives, Courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Dr.Duryodhan Sahu v. Jitendra Kumar Mishra*, ((1998) 7 SCC 273: AIR 1999 SC 114), this Court held that in service matters PILs should not be unabated in the Courts and strangely are entertained. The least the High Court could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the Court should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the Courts to filter out the frivolous petitions and dismiss them with costs as afore stated so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the Courts.”

18.7. The same principles have been reiterated in the subsequent decision, viz., B.SINGH (DOCTOR) v . UNION OF INDIA, 2004 (3) SCC 363 .

18.8. Further, in the decision in BHOLA NATH MUKHERJEE v . RAMAKRISHNA MISSION VIVEKANANDA CENTENARY COLLEGE (2011) 5 SCC 464, the Hon'ble Supreme Court has held that petitions, filed as Public Interest Litigation,



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in the service matters, are not maintainable.

18.9. Therefore, the principles laid down by the Hon'ble Supreme Court of India, makes it clear that the Public Interest Litigation is not maintainable in service matters. Accordingly, the above decision is squarely applicable to the present case on hand. Hence the same is not maintainable, hence, it is rejected."

6. In view of the settled legal position that the petition, filed as Public Interest Litigation in service matter is not maintainable, the present Writ Petition fails and the same is accordingly dismissed, giving liberty to the aggrieved persons to work out their remedy in the manner known to law. No costs. Consequently, connected Miscellaneous Petition is also closed.

(T.R.,A.C.J.) (D.B.C, J.)

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To

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THE HON'BLE ACTING CHIEF JUSTICE

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D.BHARATHA CHAKRAVARTHY, J.,

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