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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.03.2022

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P. NO.33977, 10215 OF 2019, 3746, 3749, 3751, 3752, 3755,  
7049, 7054, 13007, 13010 OF 2020

WMP.NOS.4427, 4429, 4432, 4435, 4434, 8406, 8416, 16101, 16103  
OF 2020, 18015, 18006 OF 2021, 10776 & 10781 OF 2019

M.SIVASUBRAMANIAN

... PETITIONER IN WP.No.33977 of 2019

R.RAJAPRAKASH

... PETITIONER in WP No.10215 of 2019

R.NAGALAKSHMY

... PETITIONER in WP No.3746 of 2020

R.PRAVEEN KUMAR

... PETITIONER in WP No.3749 of 2020

J. VANITHA

... PETITIONER in WP No.3751 of 2020

V.JAYAMARIMUTHU

... PETITIONER in WP No.3752 of 2020

M.PERIYANAYAKI MARY MANI

... PETITIONER in WP No.3755 of 2020

V.VAITHIANATHAN

... PETITIONER in WP No.7049 of 2020

V.VEERARAGAVAN

... PETITIONER in WP No.7054 of 2020

S.PREBAGARAN

... PETITIONER in WP No.13007 of 2020



B. INBA GUNASEKAR

... PETITIONER in WP No.13010 of 2020

Vs.

1. THE GOVERNMENT OF INDIA,  
REP.BY ITS SECRETARY  
LAW & JUSTICE DEPARTMENT,  
4<sup>TH</sup> FLOOR 'A' WING,  
SHASTRI BHAVAN,  
NEW DELHI - 110 001.

2. THE DEPUTY LEGAL ADVISOR AND  
COMPETENT AUTHORITY (NOTARIES)  
MINISTRY OF LAW & JUSTICE,  
GOVERNMENT OF INDIA,  
4<sup>TH</sup> FLOOR, A-WING,  
SHASTRI BHAVAN  
NEW DELHI - 110 001.

... RESPONDENTS in WP.NO.33977 of 2019

1 COMPETENT AUTHORITY,  
NOTARY CELL, MINISTRY OF LAW AND JUSTICE,  
DEPARTMENT OF LEGAL AFFAIRS,  
GOVERNMENT OF INDIA,  
SASTRI BHAVAN NEW DELHI 110001.

2 DEPARTMENT OF LEGAL AFFAIRS,  
THIRD FLOOR, REAR WING,  
SASTRI BHAVAN ANNEX BUILDING,  
26, HADAWS ROAD, CHENNAI .

... 1 & 2 RESPONDENTS IN WP.NOS.10215/19,  
3746, 3749, 3751, 3752, 3755,  
7049, 7054, 13007 and 13010/2020.

3 S.KATHIRVEL

4 T.LALITHA

5 N.ARUMUGAM

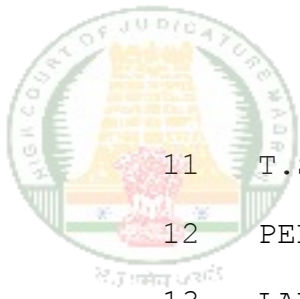
6 M.CHANDRAN

7 MOHAN ILAYARAJA

8 MACFARLANE JOHN ANDREW

9 M.ILLAMPARITHI

10 MOHAMED SULAIMAN



11 T.SATHYASEELAN

12 PERUMAL

13 LAKSHMANAN

14 N.K.SAJNA

15 KRISHNARAJ

16 J.GANESAN

17 KARTHIKAYAN

18 S.GANESH GNANASAMBANTHAN

19 S.MUNIRULLA

20 K.BHAVANI

21 A.KENGAMUTHU

22 V.CHITHRA

23 V.NARAYANAN

24 E.NATARAJAN

25 S.SIVARAJ

26 C.KALYANASOUNDARAM

27 L.BEBY

28 M.MAGUESVARY

29 P.INDHUMATHI BHUVANESVARI

30 R.KRISHNAMURTHY

... 3 TO 30 RESPONDENTS IN WP.NOS.10215/19, 3746/20, 3749/20,  
3751, 3752, 3755, 7049, 7054, 13007 AND 13010/20.

31 P.RADHAKRISHNAN

32 K.SARAVANAN  
(R31 & R32 IMPEADED VIDE ORDER DT 22.03.2022  
MADE IN WMP.NO.18015/2021 IN WP.NO.10215/2019)

... 31 & 32 RESPONDENTS IN WP.NO.10215/2019



Prayer in WP.No.33977 of 2019:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, directing the 1<sup>st</sup> respondent to appoint the petitioner as a Notary Public.

Prayer in WP.No.10215 of 2019:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a writ of Certiorarified Mandamus Calling for the records relating to the order of selection list of Appointment of Notaries, issued by Competent Authority, Notary Cell, Ministry of Law and Justice, Department of Legal Affairs, Government of India, Sastri Bhawan, New Delhi 110001 and quash the same and directing the Respondent 1 and 2 to conduct the selection for the post of notaries after giving notice to the Petitioner in the manner known to law.

(Prayer amended vide order made in WMP.No.19646 of 2019 on 19.07.2019)

Common Prayer in WP.No.3746 of 2020, 3749, 3751, 3752, 3755, 7049, 7054, 13007, 13010 of 2020:

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, Calling for the records pertaining to the list of selected candidates, selected on the basis of the performance of the candidate before the interview board and recommended by the interview board for the appointment of Notary in the State of Puducherry, issued by the 1st Respondent, dated 21.02.2019, and quash the same and further direct the Respondent 1 and 2 to Re-do the Selection process by calling for candidate for a fresh interview from the list of candidates selected for the personal interview for the appointment of Notary in the State of Puducherry dated 12.09.2018.

For Petitioner in WP.No.33977/2019: Dr.P.Vasudevan

For Petitioner in WP.No.10215/2019: M/s.S.Hemamalini

For Petitioner in WP.No.3746/20,

3749, 3751, 3752, 3755/20,

7049, 7054, 13007 & 13010/2020

: Mr.R.Balavijayan  
for Mr.V.Sivalingam



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For RR1 & 2 in WP.No.10215/19,  
33997/19, 3746, 3749, 3751,  
3752, 3755/20, 7049, 7054,  
13007, & 13010/20

: Mr.V.Chandra Sekaran  
Senior Panel Counsel  
for Mr.S.S.Pajani Radja  
Senior Panel Counsel

For R25,  
7049, 7054, 13007, 13010/20 : Mr.R.Mukundan

For RR3 to 15,  
17 to 24, 26 to 29  
in WP.No.3746, 3749,  
3751, 3752, 3755/20 : No Appearance

For RR3 to 24,  
26 to 29 in WP.No.7049/20 &  
7054/20 in WP.No.13007/20 &  
13010/2020 : No Appearance

For R16 in WP.No.3746,  
3749, 3751, 3752 &  
3755/2020 : Mr.R.Sreedhar

#### COMMON ORDER

WMP.Nos.18015 & 18006 of 2021 in W.P.No.10215 of 2019 seeking impleadment are ordered.

2. The petitioners are all practicing advocates based in Pondicherry. They have responded to a call for selection as Notary Public and had submitted their applications online with required annexures. The petitioners had received calls for interview, had attended the same and expected favourable orders.

3. While this is so, a selection list dated 21.02.2019 was released wherein the names of the petitioners did not figure. Hence, the first set of writ petitions being W.P.Nos.7049, 7054, 3746, 3749, 3751, 3752, 3755, 13007 & 13010 of 2020 & 10215 of 2019 seeking certiorarified mandamus came to be filed challenging orders of appointment of 28 appointees with serious grievances expressed in regard to the procedure that has been followed by the authorities.

4. As far as W.P.No. 33977 of 2019 is concerned, the petitioner seeks a mandamus directing the respondents to appoint him as Notary Public. The affidavit filed by the petitioner points out to several discrepancies in the selection list. Three



among the same are extremely serious and are, in fact, fatal to the process.

5. The selection pertained to 50 applicants, though the petitioners contends that the available vacancies are 53 as 3 appointees in the original 100 appointments, had passed away, post appointment. Thus, out of total of 150 initial vacancies, 97 continue in their posts and 53 posts, according to the petitioners, are available to be filled anew.

6. Per contra, learned counsels for the respondents would restrict the number to only 50. This is a technical issue which need not stop effective disposal of the writ petitions now. Even assuming that the available vacancies are only 50, 28 persons were appointed, of which the candidates at serial nos.8 (interview serial No.13) by name Mr.MohamedSulaiman had in fact pre-deceased the interview process.

7. There are two other discrepancies insofar as candidates who did not even appear for interview have been selected, one figuring at serial no.17 (interview serial no.40) by name Mr.S.Munirulla and second at serial no.19 (interview serial no.47) by name Mr. A.Kengamuthu.

8. The counter filed by the 1<sup>st</sup> respondent i.e. Competent Authority in the Notary Cell, Ministry of Law and Justice, which is dated 09.12.2019, concedes to the aforesaid gross errors. They would however, brush it away stating that it was sheer 'ill luck' and on account of the 'voluminous time bound work' that the aforesaid three persons have been included 'by mistake' in the impugned list.

9. With regard to the candidate who was deceased, but whose name figured in the list of appointees, this is what the counter filed by R1 states at para 7:

"7. The petitioner has submitted that the impugned selection list Serial No.8 with the interview at serial No.13 one Mohamed Sulaiman has been selected for the appointment as notary when the said appointee Mohamed Sulaiman was not at all alive on 12.01.2018 and on the basis of the death certificate issued by Puducherry Municipality the said Appointee was dead as early as 14.08.2018. Above all the address of deceased found in the death certificate and the address of the appointee as against serial No.8 found in the selection list are one and the same namely, No.7,6 cross, Murugankoil street, Orleanpet, Pondicherry - 605 005. In other



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words a person, who was not alive on 12.10.2018, the date of interview held by the 2<sup>nd</sup> Respondent, has been interviewed and the said Mohamed Sulaiman has been recommended by the 2<sup>nd</sup> Respondent for appointment of notary as such an arbitrary and callousness on the part of the Respondent do reflect in the manner of publishing the selection list of appointment of notaries impugned in this writ petition."

10. With regard to the candidates who have not attended to the interview, this is what counter of R1 state at para 15:

"15. I further submit that it was sheer ill luck that because of voluminous time bound work, by mistake names of three persons have been included in the impugned list at serial No.8,17&19 and these three candidates were absent on the day of interview. Copy of the Attendance sheet is enclosed as Annexure R-1 clearly indicating that they were not, present on the day of the interview. No appointment letter has been issued to these three candidates. Letters for appointment as notary have been issued to 25 remaining candidates. In this regard it is also submitted that till date approximately 14500 Notaries have been appointed by the Central Government and this Department is also in receipt of applications for appointment as Notary in large numbers. This Department also receives large number of applications for renewal, extension of area, change of area, RTI matters, public grievances, court cases etc., therefore, because of voluminous work and persons have been included in the impugned list at Serial No.8, 17 & 19 which is deeply regretted. However, the petitioner is no way connected with this inadvertent mistake. Since the petitioner's name has not been recommended by the interview Board for appointment as notary, he has approached this Hon'ble Court with an ulterior motive and is praying for quashing the selection list. The present writ petition is misconceived."

11. In my view, the sheer negligence and carelessness exhibited by the respondents has to be deprecated. Over and above, such negligence is the question of possible malafides attributable to the panel that conducted the interview process, particularly in light of the gross errors on their part.



12. While I am inclined to set aside the entire process of appointments made in the aforesaid irregular manner, I believe that credence must be had to the fact that 25 appointments have been made properly and those advocates are stated to be holding positions as Notary Public since 2019 onwards. In my view, there is nothing to be gained by disturbing their appointments.

13. Admittedly and as on date, there are another 28 posts that are vacant. Let the applications of the petitioners before me be considered for appointment in the 28 available vacancies, subject to they being competent and otherwise qualified. They shall be appointed and orders to such effect shall be passed, within a period of four weeks from today.

14. W.P.Nos.7049, 7054, 3746, 3749, 3751, 3752, 3755, 13007 & 13010 of 2020 & 10215 of 2019, are disposed in the aforesaid terms. W.P.No.33977 of 2019 seeking mandamus is dismissed as no mandamus is liable to be issued in respect of selection, such selection involving a factual determination that the candidate in question is possessed of the requisite qualifications. However, the interest of this petitioner is also covered in the direction as above, in the case of the other petitioners. Connected miscellaneous petitions are closed. No costs.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nst/ska

To

1. THE GOVERNMENT OF INDIA,  
REP.BY ITS SECRETARY  
LAW & JUSTICE DEPARTMENT,  
4<sup>TH</sup> FLOOR 'A' WING,  
SHASTRI BHAVAN,  
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2. THE DEPUTY LEGAL ADVISOR AND  
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MINISTRY OF LAW & JUSTICE,  
GOVERNMENT OF INDIA,  
4<sup>TH</sup> FLOOR, A-WING,  
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NEW DELHI - 110 001.



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3 THE COMPETENT AUTHORITY,  
NOTARY CELL, MINISTRY OF LAW AND JUSTICE,  
DEPARTMENT OF LEGAL AFFAIRS,  
GOVERNMENT OF INDIA,  
SASTRI BHAVAN NEW DELHI 110001.

4 THE DEPARTMENT OF LEGAL AFFAIRS,  
THIRD FLOOR, REAR WING,  
SASTRI BHAVAN ANNEX BUILDING,  
26, HADAWS ROAD, CHENNAI .

+1cc to Mr.K.Sukumaran, Advocate, S.R.No.19434  
+1cc to Mr.V.Sivalingam, Advocate, S.R.No.19416  
+1cc to Mr.P.Vasudevan, Advocate, S.R.No.19256

W.P. No.33977, 10215 of 2019, 3746,  
3749, 3751, 3752, 3755, 7049,  
7054, 13007, 13010 of 2020  
WMP.Nos.4427, 4429, 4432, 4435,  
4434, 8406, 8416, 16101, 16103 of 2020,  
18015, 18006 of 2021, 10776 & 10781 of 2019

SSD(CO)  
PM/29/06/2022