



W.P.(MD).No.15881 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2022

CORAM

THE HONOURABLE MR. JUSTICE M.S.RAMESH

W.P.(MD).No.15881 of 2021

and

W.M.P.(MD).No.12794 of 2021

Hajee K.E Muhammad Ismayil

... Petitioner

Vs.

- 1.State of Tamil Nadu,
Represented by
The Principal Secretary,
Municipal Administration and Water Supply Department,
State Secretariat,
St.George Fort,
Chennai – 600 009.
- 2.The Commissioner of Municipal Administration,
Office of the Commissioner of Municipal Administration,
78, Santhom Salai, MRC Nagar,
Raja Annamalaipuram,
Chennai – 600 028.
- 3.The Director,
Local Fund Audit,
Combined Finance Department Building,
4th Floor, AMMA Valagam,
Nanthanam,
Chennai – 35.
- 4.The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Madurai – 625 002.



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5.The Assistant Commissioner (Personal),
Madurai Corporation,
Madurai – 625 002.

6.R.Sivapackiam,
Law Officer,
Madurai Corporation,
Madurai – 625 002.

...Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Quo Warranto against the Respondent No.6 who is holding the post of 'Law Officer' and direct the Respondent No.6 to show to this Hon'ble Court under what authority the Respondent No.6 holds the post of Law Officer in Respondent No.4 corporation within the time stipulated by this Court .

For Petitioner	: Mr.R.Alagumani
For R-1 to R-3	: Mr.M.Siddharthan, Additional Government Pleader.
For R-4 and R-5	: Mr.T.S.Mohamed Mohideen, Standing Counsel.

ORDER

The petitioner is an erstwhile retired employee of the Madurai Corporation. The present Writ Petition has been filed seeking for issuance of Writ of Quo Warranto challenging the appointment of the sixth respondent herein as a Law Officer.



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2. The grounds raised by the petitioner in the present Writ Petition are that the sixth respondent herein had not properly undergone the LLB Degree and that there were some objections from the Local Fund Audit of the year 2012 with regard to violation of the promotion rules. Incidentally, the petitioner had also simultaneously filed an application before the Ombudsman in Case No.74/ma/2022 with regard to the same cause of action restraining the sixth respondent's appointment as a Law Officer, which is pending.

3. The Writ Petition itself seems to be filed with an ulterior motive against the sixth respondent herein. When the petitioner herein had already preferred a complaint before the Ombudsman, in which the sixth respondent also claims to have filed their report and the same is pending, the present Writ Petition for the same cause of action cannot be sustained.

4. This apart, the issue as to whether the petitioner can question the mode of degree obtaining the LLB Degree and seek for a consequential Writ of Quo Warranto has already been dealt by the Hon'ble Division Bench of this Court in the case of ***K.Karmegam Vs. The State of Tamil Nadu, Represented by its Secretary to Government, Municipal Administration and Water Supply Department, Secretariat, Chennai and others*** in ***W.P.(MD).No.4095 of 2019***,



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in which the Writ Petition came to be dismissed through an order, dated 11.11.2019, in the following manner:

"3. The points canvassed before this Court by the petitioner, who himself is a practicing Lawyer in Virudunagar District is that the 10th respondent is stated to have undergone the Law course from the 7th respondent College, when she was a full time employee of the Madurai Municipal Corporation. Therefore, she could not have attended a full time course and secured a degree from the said College.

4. We could have considered this issue independently but for one University. This is because of a writ petition filed by another Advocate practicing before this Court, who filed a Writ Petition in W.P.(MD)No.20251 of 2015, wherein a Writ of Quo Warranto was sought for to direct the 10th respondent herein to answer how she holds the post of Law Officer in the Madurai Corporation and to direct a special investigation team to be constituted to probe into the illegal appointment of the 10th respondent herein and for other connected reliefs.

5. The contentions advanced in the said writ petition is identical to that of what has been advanced before us on the ground that she could not have secured a full time LLB degree from a College in Karnataka, when she was full time employee of the Madurai Municipal Corporation. The Division Bench heard the matter and after elaborate discussion had dismissed the writ petition, vide order dated 09.08.2017 and declined to issue a Writ of Quo Warranto.



6. *This Writ Petition has been filed before this Court in the year 2019 and as pointed out by the learned standing counsel for the respondent Corporation, the petitioner would state that he is filing this writ petition on the basis of the records available in W.P. (MD)No.20251 of 2015 and on his own instigation and inducement, he seeks for a declaration of a Law degree obtained by the 10th respondent.*

7. *In the light of the comprehensive adjudication done by this Court in the earlier writ petition, which was a substantive litigation as a Writ of Quo Warranto was sought for and the Court having considered the submissions has dismissed the writ petition, we cannot on the same set of facts, which slightly differently worded prayer re-examine the matter, as it would amount to reviewing the earlier decision of the Division Bench. Hence, for that reason alone, the writ petition fails and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed."*

5. Likewise, in another decision of the Hon'ble Division Bench of this Court in the case of ***S.Muthukumar Vs. The Secretary to Government of Tamil Nadu, (Municipal Administration and Water Supply Department), Secretariat, Chennai and others*** passed in ***W.P.(MD).No.20251 of 2015, dated 09.08.2017***, the similar grounds were rejected in the following manner:

"12. The appointment of the fifth respondent is under challenge primarily on the ground that the candidate ought to



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have taken the Law Degree by undergoing regular course. The petitioner would be correct in his contention, in case there is a stipulation in the Service Rules that for promotion, the candidate must have a degree in Law, enabling her to practise the profession of Law. However, that is not the rule framed for appointment to the post of Law Officer in Madurai Corporation. The qualification very clearly indicates that the candidate must have a degree in Law or equivalent degree, meaning thereby, even a degree holder possessing equivalent degree would be eligible for appointment to the post of Law Officer. There is no mention anywhere that the candidate must have studied the Law Degree by undergoing a regular course and that he should be entitled to practise the profession of Law. In the absence of any such stipulation, the petitioner cannot be heard to say that the fifth respondent was not eligible for appointment to the post of Law Officer. No other contentions were taken before us.

13. The fifth respondent satisfied the eligibility criteria and as such, she was rightly appointed by the Madurai Corporation. We do not find any ground made out by the petitioner for issuing a Writ and more particularly, a Writ of Quo Warranto."

6. The aforesaid two decisions are squarely applicable to the grounds raised by the petitioner in the present Writ Petition. As such, the prayer sought for in the present Writ Petition cannot be granted. More so, when the petitioner herein had already filed an application before the Ombudsman for the same



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relief, it would not be appropriate to adjudicate the present Writ Petition also.

As such, I do not find any merits in the present Writ Petition.

7. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petition stands closed.

21.07.2022

Index : Yes / No

Internet : Yes/ No

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To

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M.S.RAMESH, J.

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