



W.P(MD)No.10502 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 24.11.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)Nos.10502 to 10505 of 2022, 11269 of 2022
& 12122 of 2022
and
W.P(MD)Nos.7617 to 7619, 7622, 7624, 7627,
7625, 7629, 8027 & 8711 of 2022

W.P(MD)No.10502 of 2022:

K.Arulkumar

... Petitioner

Vs

1.The Government of Tamil Nadu
Rep.by the Principal Secretary,
Backward Class, Most Backward Class and
Minorities Welfare Department,
Fort St.George,
Chennai – 600 009.

2.The Commissioner,
Directorate of Backward Class Welfare,
Ezhilagam Annexe Building II Floor,
Chepauk,
Chennai – 600 005.

3.The District Backward and
Minorities Welfare Officer,
Tenkasi District,
Tenkasi.

... Respondents



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Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records pertaining to the impugned order passed by the second respondent in Letter No.B4/2874/2020, dated 09.05.2022 and the impugned notice issued by the third respondent in Na.Ka.No.Gna1/159/2021, dated 17.05.2022 and quash the same.

For Petitioner : Mr.M.Saravanan

For Respondents : Mr.Veera Kathiravan
Additional Advocate General
Assisted by
Mr.R.Suresh Kumar
Additional Government Pleader

COMMON ORDER

Heard the learned counsel appearing for the writ petitioners and the learned Additional Advocate General assisted by the learned Additional Government Pleader appearing for the respondents.

2.The writ petitioners were appointed as Cooks vide orders dated 17.02.2021 by the District Backward and Minorities Welfare Officer, Tenkasi. The petitioners had been working in that capacity ever since. While so, they were asked to present themselves in the Institute of Hotel Management Catering Technology and Applied Nutrition, Taramani, Chennai on 26.03.2022. On the said date the petitioners were asked to show case their talents. The



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persons in-charge of the said Institute assessed the performance of the writ petitioners. The writ petitioners had scored the following marks:

GRADE – D (i.e. Marks scored from less than 15)			
Sl.No	District	Name of the Cook Tvl./Tmt.	Marks obtained Max.50
1	Tenkasi	M.PERUMAL	11
2		K.ARULKUMAR	11
3		P.ATHINARAYANAN	11
4		C.MOHAMED KURCITH ANVAR	14
5		K.THANGADURAICHI	13

3. Thereafter, the petitioners have been served with the impugned show cause notices dated 17.05.2022. The show cause notices came to be issued pursuant to the communication dated 09.05.2022 issued by the Commissioner of Directorate of Backward Classes Welfare, Chepauk, Chennai. The petitioners challenge both the communications in these writ petitions.

4. The learned counsel appearing for the petitioners reiterated all the contentions set out in the affidavits filed in support of the writ petitions and called upon this Court to set aside the impugned communications and allow the writ petitions as prayed for.



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5.The respondents have filed counter affidavits and the learned Additional Advocate General took me through their contents. The primary argument of the learned Additional Advocate General is that the impugned communications issued by the District Backward and Minorities Welfare Officer is only a show cause notice and the petitioners can very well offer their explanations. He would add that the Government received a large number of complaints in respect of the appointments made during the relevant time. One of the allegations was that the selected candidates did not have proper experience at all. That is why, they were sent to the Institute of Hotel Management Catering Technology and Applied Nutrition, Taramani, Chennai for assessing their performance. Though as many as 300 appointees were sent for assessment, only 150 did not clear the threshold marks. Therefore, he submitted that there is no arbitrariness involved in the process. In any event, writ petitions in respect of the show cause notice are not maintainable. He pressed for dismissal of same.

6.I carefully considered the rival contentions and went through the materials on record. The objection raised by the learned Additional Advocate General as regards the maintainability of the writ petitions does not appeal to me. The learned counsel appearing for the petitioners would rely on the decision of the Hon'ble Apex Court reported in **(2006) 12 SCC 33 (Siemens**



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Ltd v. State of Maharashtra and ors) to contend that where predetermination is evident, the writ petitions are maintainable even in respect at the show cause notice stage. In this case, the communication issued by the Government on 29.04.2022 makes it clear that Cooks who have obtained less than 15 marks should be removed immediately. All the petitioners herein scored below 15 marks. In these circumstances, giving reply to the impugned show cause notices would only be an empty formality. According to me, the writ petitioners have rightly approached this Court.

7.The next question that calls for consideration is whether the respondents were justified in issuing the impugned communications on the strength of the performance on 26.03.2022 in Tharamani Institution. As rightly pointed out by the learned counsel appearing for the writ petitioners, once the petitioners have been appointed, it can be revisited only in the manner known to law. Their appointment orders do not contain any stipulation that it is contingent on the assessment to be made by the Tharamani Institute. The petitioners were not even put on notice that their fate will depend on their performance in Tharamani Institute. The petitioners were asked to go to the Institute and they had merely complied with the said direction. The impugned communications are patently lacking in jurisdiction. I therefore set aside the impugned orders.



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8. These writ petitions are allowed. There shall be no order as to costs in all the writ petitions. Consequently, all the connected miscellaneous petitions are closed.

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Index : Yes / No
Internet : Yes/ No
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