



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

CRP(PD) (MD)No.1259 of 2022

Bharathvarun

... Petitioner/Petitioner

versus

1. The Assistant Primary Educational Officer,
Office of the Assistant Primary Educational officer,
Kadaladi.
2. The District Educational Officer (Primary Education)
Office of the District Educational Officer,
District Collector Office,
Ramanathapuram.
3. The Accountant General,
Office of the Accountant General (A&E)
Chennai - 18.
4. G.Broid Jeniff
5. G.Abishalushle
6. Maria Daisy

... Respondents

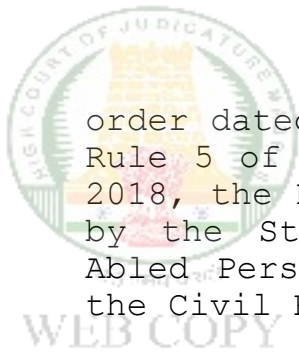
Civil Revision Petition filed under Article 227 of the Constitution of India, against the order passed in unnumbered GWOP No.Nil of 2022 on the file of the Principal District Court, Ramanathapuram, dated 07.04.2022.

For Petitioner : Mr.C.Vakeeswaran
For R1 and R2 : Mr.L.Shaji Bhino,
Special Government Pleader

ORDER

This Civil Revision Petition is filed against the order dated 07.04.2022 passed by the learned Principal District Judge, Ramanathapuram, in unnumbered petition filed by the petitioner seeking to appoint him as Guardian of the mentally retarded person, Tmt.Jesinthamary, W/o.A.Glittus, under Section 14(1) of Rights of Persons with Disabilities Act, 2016.

2. The petitioner herein filed a petition before the Principal District Court, Ramanathapuram, for appointing him as Guardian of his mother Tmt.Jesinthamary, W/o.A.Glittus, a mentally retarded person, under Section 14(1) of Rights of Persons with Disabilities Act, 2016. The learned Principal District Judge, Ramanathapuram, by



order dated 07.04.2022, returned the papers by referring that as per Rule 5 of the Tamil Nadu Rights of Persons with Disabilities Rules 2018, the District Collector is the designated authority as notified by the State Government in G.O.Ms.No.28, Welfare of Differently Abled Person Department dated 27.07.2018. Aggrieved over the same, the Civil Revision Petition has been filed.

3. Heard both sides and perused the materials available on record including the order passed by the learned Principal District Judge, Ramanathapuram.

4. Section 14 of Rights of Persons with Disabilities Act, 2016, deals with the guardianship and the same is extracted as under:

"14. Provision for guardianship

(1) Notwithstanding anything contained in any other law for the time being, in force, on and from the date of commencement of this Act, where a district court or any designated authority, as notified by the State Government, finds that a person with disability, who had been provided adequate and appropriate support but is unable to take legally binding decisions, may be provided further support of a limited guardian to take legally binding decisions on his behalf in consultation with such person, in such manner, as may be prescribed by the State Government.

Provided that the District Court or the designated authority, as the case may be, may grant total support to the person with disability requiring such support or where the limited guardianship is to be granted repeatedly, in which case, the decision regarding the support to be provided shall be reviewed by the Court or the designated authority, as the case may be, to determine the nature and manner of support to be provided.

Explanation: For the purposes of this sub-section, "limited guardianship" means a system of joint decision which operates on mutual understanding and trust between the guardian and the person with disability, which shall be limited to a specific period and for specific decision and situation and shall operate in accordance to the will of the person with disability.

(2) On and from the date of commencement of this Act, every guardian appointed under any provision of any other law for the time being in force, for a person with disability shall be deemed to function as a limited guardian.

(3) Any person with disability aggrieved by the decision of the designated authority appointing a legal



guardian may prefer an appeal to such appellate authority, as may be notified by the State Government for the purpose."

5. The designated authority is notified by the State Government under Rule 5 of the Tamil Nadu Rights of Persons with Disabilities Rules 2018, which reads as follows:

"5. Limited Guardianship - (1) Appointment of designated authority and appellate authority:-

(i) The District Collector shall be the designated authority for the purpose of sub-section (1) of section 14 of the Act.

(ii) The Commissioner for Welfare of the Differently Abled shall be the appellate authority for the purpose of sub-section (3) of section 14 of the Act."

6. Since the State Government has notified the District Collector as the designated authority for the purpose of Sub Section (1) of Section 14 of the Rights of Persons with Disabilities Act 2016, the learned Principal District Judge, Ramanathapuram, has rightly returned the said petition. Therefore, this Court is not inclined to interfere with the order of the Court below.

7. Accordingly, the Civil Revision Petition is dismissed. The petitioner is at liberty to file a necessary application before the District Collector, Ramanathapuram.

8. The learned counsel for the petitioner apprehends that the District Collector, who is dealing with several subjects, may not have time to dispose of the application to be filed.

9 The apprehension of the learned counsel appearing for the petitioner is unwarranted, in view of the provisions of Rule 5(2)(v) of the Tamil Nadu Rights of Persons with Disabilities Rules 2018. Since Rule 5(2)(v) of the Tamil Nadu Rights of Persons with Disabilities Rules 2018 prescribes the time limit of one month for disposing of the application, the designated authority is bound by the said Rules and the same will be disposed of within the time as stipulated under Rule 5(2)(v) of the Tamil Nadu Rights of Persons with Disabilities Rules 2018. No costs.

Sd/-

Assistant Registrar(RTI)

// True Copy //

06/07/2022

Sub Assistant Registrar(CS)

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To

1. The Principal District Judge,
Principal District Court,
Ramanathapuram.
2. The Assistant Primary Educational Officer,
Office of the Assistant Primary Educational officer,
Kadaladi.
3. The District Educational Officer (Primary Education)
Office of the District Educational Officer,
District Collector Office,
Ramanathapuram.
4. The Accountant General,
Office of the Accountant General (A&E)
Chennai - 18.
5. The District Collector, Ramanathapuram.

+1 CC to M/s.C. VAKEESWARAN, Advocate (SR-29988[F] dated 05/07/2022)

CRP (PD) (MD) No.1259 of 2022
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sg(CO)
TR(06.07.2022) 4P 7C