



W.P(MD)No.27713 of 2022

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.12.2022

CORAM:

**THE HONOURABLE MR.JUSTICE D. KRISHNAKUMAR
and
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P(MD)No.27713 of 2022
and
W.M.P(MD)No.21821 of 2022**

Periyasamy

... Petitioner

VS.

- 1.The Principal Secretary to Government/
Commissioner of Revenue Administration,
Ezhilagam,
Chepauk,
Chennai.
- 2.The District Collector,
Sivagangai District,
Sivagangai.
- 3.The Sub-Collector,
Devakottai,
Sivagangai District.
- 4.The Tahsildar,
Devakottai Taluk,
Devakottai,
Sivagangai District.
- 5.Kumar
- 6.K.Ilayarasi

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WEB COUNCIL

7.L.Ravikumar
8.K.Ganesan
9.V.Ambika
10.C.Sevugamoorthy
11.K.Isuriya
12.J.Jesintha Mary
13.Muruganantham
14.M.Antony Ammal

... Respondents

PRAYER : Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Declaration, declaring that the recruitment/selection process of respondents 5 to 14 made vide notification of the fourth respondent in Na.Ka.No.A3-3718-2017, dated 27.09.2018 as Village Assistants respectively for Vellikatti, Poosalakudi, Puthurani, Peraattukottai, Sakanthi, Veelimar, Kandadevi, Selugai, Thalakaavaya and Sadayamangalam Villages as illegal and unconstitutional in view of the order of the third respondent made in Na.Ka.No.A2-8881-2018, dated 08.11.2018 and Na.Ka.No.A2-8881-2018, dated 27.12.2018 and to consequently direct the first and second respondents to appoint some other officer as appointing authority for recruitment to the post of 11 Village Assistants in Devakottai Taluk published vide notification of the fourth respondent in Na.Ka.No.A3/3936/2022, dated 10.10.2022.

For Petitioner : Mr.M.Balakrishnan

For RR 1 to 4 : Mr.P.Thilak Kumar
Government Pleader



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ORDER

(Order of the Court was made by D. KRISHNAKUMAR, J.)

The petitioner has filed the present Writ Petition seeking for issuance of a Writ of Declaration, declaring that the recruitment/selection process of respondents 5 to 14 made vide notification of the fourth respondent in Na.Ka.No.A3-3718-2017, dated 27.09.2018 as Village Assistants respectively for Vellikatti, Poosalakudi, Puthurani, Peraattukottai, Sakanthi, Veelimar, Kandadevi, Selugai, Thalakaavaya and Sadayamangalam Villages as illegal and unconstitutional in view of the order of the third respondent made in Na.Ka.No.A2-8881-2018, dated 08.11.2018 and Na.Ka.No.A2-8881-2018, dated 27.12.2018 and to consequently direct the first and second respondents to appoint some other officer as appointing authority for recruitment to the post of 11 Village Assistants in Devakottai Taluk published vide notification of the fourth respondent in Na.Ka.No.A3/3936/2022, dated 10.10.2022.

2.The petitioner has filed the present Writ Petition styled as "Public Interest Litigation" stating that the third respondent has directly recruited the respondents 5 to 14 as Village Assistants for Vellikatti, Poosalakudi, Puthurani, Peraattukottai, Sakanthi, Veelimar, Kandadevi, Selugai,

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Thalakaavaya and Sadayamangalam Villages respectively. As per the Tamil Nadu Village Assistants Special Rules and as per G.O.Ms.No.521, dated 17.06.1998, issued by the Revenue Department of the Government of Tamil Nadu, priority has to be given to the candidates, who are the permanent residents of the Village to which they are recruited. Upon such short listing, the recruiting authority has to select the candidates by considering the conditions as prescribed under the Notification.

3.According to the petitioner the official respondents, having given a go-by to all the conditions, has recruited the respondents 5 to 14, without following Rule 7(c) of the Tamil Nadu Village Assistants Service Rule and the classification of the Government with regard to the maximum educational qualification vide letter, dated 09.10.2012 issued by the first respondent and further stated that the official respondents have not followed the communal roster. Hence, the petitioner made a representation to the respondents 1 to 4 against the selection of the respondents 5 to 14.

4.The primordial contention of the petitioner is that as per Rule 7(c) of the Tamil Nadu Village Assistants Service Rule, the persons appointed to the post shall belong to the same Village to which he is appointed or the



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adjoining Village, if no suitable candidate is available from that Village, but in the present case, the fourth respondent has totally ignored the said rule, has chosen to appoint the candidates those who are residing in remote places, even though the local resident candidates are available. Therefore, the petitioner has challenged the aforesaid notification issued by the third respondent on the aforesaid grounds.

5.The learned counsel appearing for the petitioner relied on the communications of the Sub-Collector addressed to the Tahsildar to revise the selection list and forwarded it to the authority for selection to the post of Village Assistants. The said proceeding dated 08.11.2018 has not been considered by the Tahsildar. Subsequent to the notification, the Tahsildar has appointed the respondents 5 to 14 and the petitioner has challenged the said appointment in the instant Writ Petition before this Court. The learned counsel appearing for the petitioner has also challenged on the ground that some other officer has to be appointed for the present recruitment to the post of Village Assistants in Devakottai Taluk.



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6.The learned Government Pleader appearing for the respondents 1 to 4 strongly objected that the petitioner has challenged the selection of the respondents 5 to 14, who were selected by the Tahsildar in the year 2018. After a delay of 4 years, the present Writ Petition has been filed by the petitioner. The petitioner has not challenged the appointment orders issued to the respondents 5 to 14. Therefore, *prima facie*, there is no merit in the Writ Petition and as such, the Writ Petition is not maintainable on the aforesaid ground. Besides, the second limb of the prayer of the petitioner is to appoint some other officer for recruitment. Notification has been issued for the year 2022. Now, it has been stated that the allegation against the then Tahsildar is no longer in subsistence, since the said officer is not working as Tahsildar in the fourth respondent's office. Therefore, the said prayer is also liable to be rejected.

7.Accepting the said contention of the respondents 1 to 4, this Court also considered the maintainability of the writ petition by relying upon the decision of the Honourable Supreme Court in the case of **Ashok Kumar Pandey Vs. State of West Bengal** reported in **2004 (3) SCC 349**, wherein, it is observed as follows:-



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"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 and Ors. v. Jitendra Kumar Mishra and Ors.](#) (AIR 1999 SC 114), this Court held that in service matters PILs should not be entertained, the inflow of so- called PILs involving service matters continues unabated in the Courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision."

8. In the recent decision of the Honourable Supreme Court in ***Bholanath Mukherjee and others Vs. Ramakrishna Mission Vivekananda Centerary College and others*** reported in **(2011) 5 SCC 464**, wherein, it is held as follows:-

31. *"In the alternative, the learned senior counsel submits that the writ petition would have to be treated as public interest litigation. It is, however, settled by this Court*



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that public interest litigation would not be maintainable in service law cases. In support of this submission, he relies on the judgments of this Court in the cases of Dr. Duryodhan Sahu & Ors. Vs. Jitendra Kumar Mishra & Ors reported in (1998) 7 SCC 273 and Gurpal Singh Vs. State of Punjab & Ors. Reported in (2005) 5 SCC 136. Therefore, again no relief can be granted to the writ petitioners/appellants."

9. Agreeing to the contention of the respondents 1 to 4 that the petitioner has not challenged the appointment orders of the respondents 5 to 14 is apart from the other merits of the case. No *prima facie* case is made out to entertain the Writ Petition in the guise of the Public Interest Litigation.

10. Considering the facts as well as the decisions cited supra, this Court is of the view that there is no merit in the Writ Petition and the same is dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

[D.K.K.,J.] [R.V.,J.]
09.12.2022

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Internet : Yes
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To

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Commissioner of Revenue Administration,
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D. KRISHNAKUMAR,J.
and
R.VIJAYAKUMAR,J.

ps

ORDER MADE IN
W.P(MD)No.27713 of 2022

DATED : 09.12.2022

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