

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

|                             |          |                   |
|-----------------------------|----------|-------------------|
| <b>ORDERS RESERVED ON</b>   | <b>:</b> | <b>24.04.2023</b> |
| <b>ORDERS PRONOUNCED ON</b> | <b>:</b> | <b>01.06.2023</b> |

**CORAM:**

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU**

**W.P. No. 24904 of 2013  
and M.P.Nos. 1 and 2 of 2013  
and M.P.No.1 of 2014**

O.P.Chandran

....Petitioner

-VS-

- 1) The State of Tamil Nadu  
Represented by its Secretary to Dept of Revenue  
Fort Saint George,  
Chennai 600009
- 2) The Collector of Nilgiris,  
Udhagamandalam,  
Nilgiris District.
- 3) The Tahsildar  
Pandalur Taluk  
Pandalur 643212
- 4) The District Employment Officer  
The District Employment Office  
Udhagamandalam,  
Nilgiris District.
- 5) Ramarajan
- 6) Kumaran

...Respondents

**Prayer:** Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus to call for the records of the proceedings of the Respondent No.3 herein in proceedings in Na.Ka.Aa3. En. 9138/ 2010 dated 17.11.2010 and quash the same and direct the Respondent to consequently to appoint the petitioner as a Village Assistant and consequently grant such other relief.

For Petitioner : Mr.P.V.Ravi Chandran

For Respondents : Mr.J.C.Durairaj for R1 to R4  
Additional Government Pleader  
No appearance for R5 and R6

### **ORDER**

The petitioner challenges the letter of 3<sup>rd</sup> respondent/Tahsildar, Pandalur dated 17.11.2010, wherein, the Tahsildar, Pandalur Taluk, sought the District Employment Officer, Udthagamandalam-4th respondent, to send the list of eligible candidates for filling up of vacancies of 2 posts of Village Assistant, Pandalur Taluk. The petitioner prays to quash the same and seeks for a direction to the respondents to appoint him as a Village Assistant.

2. The petitioner belongs to Hindu Kurumba community classified by Government of India as Scheduled Tribe. Originally the Tahsildar, Pandalur, issued a notice dated 29.03.2007, addressed to the petitioner which notice is intended to call for eligible candidates to attend the interview on 03.04.2007 at 11.00 am., for filling up the post of Village Assistant in the said office. The said Notice refers to G.O.M.S.787 Revenue 7(1) dated 06.12.2006; proceedings of the District Collector in Na.Ka.Aa1 E.66763 of 2006 dated 12.02.2006 and the proceedings of the Revenue Divisional Officer, Gudalur in Na.Ka.Aa2 En.102886/06 dated 10.02.2006.

3. The prescribed qualification for the above post is that the candidates would not have passed 10<sup>th</sup> standard; should not be suffering from any handicap; they should be able to ride a bicycle ; they should be fluent in speaking and writing Tamil language; they should be a resident of Revenue Village in Pandalur Taluk.

4. Thereafter, by the impugned letter dated 17.11.2010, the Tahsildar sent a letter to the District Employment Officer seeking to send a list of

candidates eligible for filling up the two post of Village Assistant.

5. The petitioner preferred a representation dated 11.02.2011 to the District Collector, Udhagamandalam, seeking a direction to the District Employment Officer, to sponsor his name for the recruitment to the post of Village Assistant by giving suitable recommendations as he is working in the Village Administrative Office, Erumadu Village, for the past 8 years as a consolidated pay staff and that he already attended interview on 03.04.2007 for the post of Village Assistant, but the Revenue officials rejected his name for appointment citing the reason that he did not know to read and write Tamil. The petitioner submitted in his representation that the said reply was provided by the District Collectorate Office, dated 13.11.2007. The petitioner submitted that for the past 8 years he has been working in the Revenue Department and assisted the Village Administrative Officer, Tahsildar Office and had prepared notes and communications in Tamil and therefore, sought to relax the age limit and recommend his name for the selection to the post of Village Assistant. It was pointed out that he was aged 41 years and even though he registered his name in the employment exchange in the year 1988, his name was not

sponsored to the recruitment by the District Employment Officer, but pursuant to letter dated 17.11.2010, his name was not sponsored citing the reason that he is not coming under the requisite age limit. The petitioner also requested the District Collector, Udthagamandalam, to sponsor his name for employment as he belongs to Scheduled Tribe - Kurumbas Community and his family is a downtrodden and living in poverty.

6. By letter dated 22.02.2011, the Tahsildar, Pandalur, intimated the petitioner to attend the interview for selection to the post of Village Assistant on 25.02.2011 at 10.00 am., by referring to recommendations of the District Revenue Officer dated 22.10.2010 and the District Employment office letter dated 14.02.2011 and the petitioner also attended the interview.

7. However, the petitioner has not been selected to the post of Village Assistant, who performed well in the interview dated 25.02.2011. Therefore, by letter dated 01.03.2011, the petitioner sought certain information from the Public Information Officer cum Tahsildar Office, Pandalur, Nilgiris District under RTI Act. The petitioner framed 16 questions that were sought for

reply/information.

8. A perusal of the RTI questions raised by the petitioner would show that all related to the mode of recruitment, the eligibility fixed for the post of Village Assistant, number of vacancies that arose from the year 1990, caste rotation applicable for the post, the candidates who attended interview on 03.04.2007, details of the persons who were selected to the post of Village Assistant in the interview on 03.04.2007, total number of candidates who attended the said interview, details of persons attended interview on the subsequent date of interview on 25.02.2011, as to whether any bar in selecting the Scheduled tribe community candidate for filling up the post, as to whether any experience required and what are the other eligibility conditions for selection.

9. The Tahsildar, answered the RTI queries by letter dated 05.05.2011 to the petitioner stating that the eligibility for the selection is that candidates must be 8<sup>th</sup> standard pass; no experience required; must be a resident of said Tehsil; in the past 5 years, 4 posts were filled up; at present there is no vacancy; names

of the candidates, their age who have been selected and who attended interview were listed out. The RTI reply annexed the GOs and proceedings governing the selection. It was also replied that filling up the post by Scheduled tribe candidate was sought for from the Government.

10. It is curious to note that there was no information regarding appeal provision, if there is any grievance against the said reply. In any event, the petitioner who did not get any reply from the information officer, preferred a petition to the appellate authority on 07.04.2011, for which the District Collectorate Office communicated the Tahsildar office to give proper reply to the petitioner for the queries raised under RTI.

11. The petitioner, who was aggrieved against the reply given, preferred further appeal dated 11.05.2011 before the Tamil Nadu Information Commission. The said authority by communication dated 10.06.2011, directed the Public Information Officer/Tahsildar office, Pandalur, Nilgiris district, to provide information that was sought for by the petitioner.

12. Since no action was taken in his petitions, the petitioner issued mandatory legal notice dated 29.06.2011 to the Collector, Nilgiris, Tahsildar, Pandalur asking to rectify the error and to provide correct information.

13. In the typed set of papers, in support of his eligibility to the post of Village Assistant, the petitioner annexed educational certificate, History sheet, community certificate and the certificate issued by the Village Administrative Officer, Erumad Village-I, showing that he is working as Village Assistant in the consolidated pay for the past 8 years and that he was a bonafide person.

14. The petitioner earlier filed W.P.No.18259 of 2011 for a writ of mandamus directing the respondents (1) Secretary, Department of Revenue (2) The Collector of Nilgiris (3) The Tahsildar, Pandalur Taluk, to appoint him to the post of Village Assistant. In the said WP, counter affidavit was filed by the 3rd respondent/Tahsildar, submitting that an open interview was conducted for the sponsored candidates with simple objective type written test, interview conducted on 25.02.2011, based on the highest marks obtained by them and on other merits of the individual, one candidate each on the basis of caste rotation

sponsored by the District Employment Officer, Udhagamandalam, two candidates, one under O.C. non priority and other under S.C. non-priority were selected and appointment order issued and the individuals joined duty. It was also stated that the petitioner is a candidate and attended the interview, but he cannot claim as a matter of right to the post which conducted open competition. It was also averred that under the RTI, the details called for were furnished by letter dated 05.05.2011.

15. The above said writ petition was dismissed as withdrawn on 08.03.2013 with liberty to file a fresh writ petition. The operative portion of the order reads as under:-

“ 4. However, a counter affidavit has been filed on behalf of the respondent saying that the posts were already filled up by notifying the same and the petitioner also participated in the said interview and not selected.

5. In view of the same, the petitioner, without challenging the non-selection, by impleading the persons who have been selected has come up with the present writ petition, only for a mandamus. When the same has been pointed out to the learned

counsel for the petitioner, the learned counsel for the petitioner seeks permission to withdraw the writ petition with liberty to file a fresh writ petition challenging the non-selection.

6. In view of the same, the writ petition is dismissed as withdrawn with liberty to the petitioner to file a fresh writ petition. The respondents are directed to furnish the information about the persons who have been selected to the petitioner as and when the petitioner makes such request. The petitioner shall make a request to the respondents within a week from the date of receipt of a copy of this order and the respondents are directed to provide the information within a period of two weeks thereafter, so as to enable the petitioner to work out his remedy. No costs.”

16. Accordingly, W.P.No.18259 of 2011 was withdrawn and the present writ petition was filed by impleading the selected candidates.

17. On the same day of disposal i.e., 08.03.2013, the petitioner made a representation to the (1) Secretary, Department of Revenue, (2) The Collector, Nilgiris, (3) The Tahsildar, Pandalur Taluk and (4) The District Employment Officer, Udhagamandalam, seeking (a) comprehensive details pertaining to the

appointment of candidates who have been appointed instead of the petitioner, including their appointment order after the interview was conducted on 25.02.2011;(b) Alleged requisition letter to the District Employment Office, Udhagamandalam in letter dated 17.11.2010 (c) Response of the District Employment Office, Udhagamandalam to the letter dated 17.11.2010 allowing to the requisition.

18. The Tahsildar, Pandalur, by communication dated 26.04.2013, given the details of persons selected in the interview on 25.02.2011 along with their personal details. The eligibility prescribed for the said selection, the table showing caste rotation and the candidates short listed for selection wherein it is showing O.C.Non priority 9 candidates and S.C. Non priority 6 candidates, were furnished to the petitioner.

19. After receiving the details, the petitioner has filed the present Writ Petition. The docket sheet shows that when the matter was listed for admission, on 06.09.2013, 11.09.2013, 17.09.2013, 07.10.2013 the counsel for the petitioner sought adjournment for the reasons best known to him. It is no doubt

true that the counsel filed the writ petition for the 2nd time after getting liberty from this court challenging the selection and to implead the selected candidates.

20. On 03.12.2013, notice was ordered and the Government Advocate took notice for the official respondents. Thereafter, the matter was listed on 11.04.2014, but thereafter, the matter was not listed. It is the contention of the counsel for the petitioner that the bundle was lost and a complaint has been given to Registrar (Judicial) in this regard and after several attempts, the matter has been listed on 03.01.2022. Thereafter, the matter has been listed before me on 06.01.2023, 25.01.2023, 08.02.2023, 13.02.2023, 07.03.2023, 17.03.2023, 11.04.2023, 17.04.2023 and finally arguments heard and the matter was reserved for orders on 24.04.2023.

21. A perusal of original records would go to show that the Government Advocate, GP Office, communicated to the Tahsildar, Pandalur to send counter affidavit in the matter by letter dated 04.12.2013 and the Tahsildar, by letter dated 26.12.2013, sent counter affidavit along an Assistant to the GP office.

The counter affidavit would read the same set of averments in the counter in W.P.No.18259 of 2011. In addition to that, it was stated that as per caste roster, the selection carried out.

22. Another letter dated 05.12.2013 from the Tahsildar, Pandalur Taluk, Nilgiris dated 05.12.2013 addressed to R.M.Muthukumar, Govt. Advocate would read as under:-

*" I invite kind attention to the W.P.No.24903/2013.  
The above case has been posted for hearing on  
11.12.2013. I therefore request you to enter appearance  
and defend the case and to get long adjournment."*

23. The counter affidavit of the Tahsildar, Pandalur was also found in the records. By letter dated 08.03.2014, the District Collectorate addressed to the Tahsildar, Pandalur, to intimate the present status about pendency of W.P.No.29404 of 2013 (present writ petition).

24. It is also pertinent to note herein that by several communications 26.09.2014, 10.12.2014, 02.02.2015, the Tahsildar and the District

Collectorate office sent letters to the Government Advocate seeking the details of pendency of W.P.No.24904 of 2013. Thereafter, in the year 2021, there were communications from Tahsildar Office to District Collectorate Office, stating counter affidavits filed in the matter and the same was filed in USR.No.519/16 dated 02.09.2016.

25. It is also transpired that by letter dated 09.10.2020, the Tahsildar Office addressed to Government Advocate asking why the matter has not been listed for long time even though counter has been filed as early as on 27.03.2015. It was also stated that letters dated 13.01.2020 and 11.03.2020 were sent through special messenger to Government Pleader Office. Again on 06.02.2021, the Tahsildar sent similar letter to G.P.office and requested to list the matter before the court. The DRO office, Gudalur also sought the Tahsildar about the pendency of the present writ petition by communication dated 27.07.2021. Again by letters dated 13.09.2021, 16.12.2021, 07.01.2022, 07.02.2022, 14.03.2022, 16.11.2022, 18.10.2022, the respondents sent communications to each other department asking to clarify the status of the pendency of the present writ petition stating that counter affidavit has been

filed in the said case and USR number has been obtained.

26. The District Collectorate office, by letter dated 20.01.2023, addressed to Tahsildar, Pandalur, stated that based on the letter dated 09.11.2022 of the Tahsildar, Pandalur (Ref.No.8), it is seen that due to non prosecution on the part of the petitioner on 01.03.2021, the present writ petition was dismissed and asked to communicate the copy of the order passed in the writ petition.

27. Thereafter, the Tahsildar, Pandalur, addressed a letter dated 11.02.2023 to Mr.Vijayan, Serampadi Revenue Divisional Officer, Serampadi, to appraise the details regarding the case to the Government Advocate on the date of hearing i.e.13.02.2023. Even thereafter, the District Collectorate office, by letter dated 27.02.2023 addressed to Tahsildar, Pandalur, asked for the copy of dismissal order passed by this court on 01.03.2021 in this writ petition.

28. Though it was wrongly mentioned by the Collectorate Office that the writ petition was dismissed for non prosecution, vide their letters dated

09.11.2022 and 11.02.2023, there was no such dismissal order by this court. This will clearly shows that the respondents, without any application of mind and without verification to original source of information, make correspondence in respect of writ petition filed before this court.

29. Mr.J.C.Durai Raj, learned Additional Government Pleader appearing for respondents 1 to 4 would submit that the information sought by the petitioner regarding selection to the post of Village Assistant has already been given to him and the selection was made in adherence of the G.O.s in force.

29. There is no appearance for the counsel appearing for respondents 5 and 6-selected candidates.

30. Heard the learned counsel for the parties and perused the impugned order, entire records placed before this court.

31. The contention of the learned counsel appearing for the petitioner is that the very spirit of the provisions relating to rule of reservation as

mandated in the Constitution was not maintained in the case on hand and as such the very recruitment Notice dated 17.11.2010 is arbitrary.

32. Article 46 of the Constitution provides that the State shall promote with special care the educational and economic interests of the weaker sections of the society and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation.

33. In the case on hand, it is very clear that the petitioner who belongs to scheduled tribe community is having legitimate rule of reservation in his favour in the place of recruitment which is a tribal area viz., Gudalur. However, the respondent-authorities failed to implement the Rule of Reservation mandated under the Constitution. That apart, the information furnished to the petitioner, pursuant to the earlier writ petition direction, would go to show that the 6<sup>th</sup> respondent in the present writ petition who has been appointed to the post of Village Assistant is HSC pass candidate, which is against the eligibility condition stipulated in the

recruitment notification. Further, some other candidates sponsored through employment officer also would show that they passed HSC. Therefore, this court is of the firm view that some irregularities committed in the process of recruitment and selection to the post of Village Assistant and the petitioner has been victimised for the reasons best known to the authorities.

34. A perusal of the records in this matter would go to show that the caste rotation roster for the post of Village Assistant is mentioned as BC (Non priority category) and MBC (non priority category). It is indisputable settled law that percentage of reservation for SC/ST is generally fixed in proportion to the population in the concerned State/Union Territory. Therefore, the authorities cannot confuse with caste rotation roster otherwise and reject the petitioner in the selection, who already worked in the Village Administrative Office, Erumad-I, for 8 years and produced such certificate in his support.

35. It is very unfortunate case that the petitioner who has put in 8 years of service in the Village Administrative Office and who participated

in the selection process and attended the interview and represented the Scheduled Tribe Community, belonging to downtrodden and living in low poverty line, is denied the employment and he was made to run from pillar to post. It is very unfortunate situation that due to his non selection to the post of Village Assistant, he was put to much hardship and the “justice delayed is justice denied” should be kept in mind so as to work conjointly in a manner that no one is denied justice merely on account of delay in the court cases.

36. In the considered view of this court, the respondent-authorities failed to take note of the rule of reservation in letter and spirit and failed to take note of the percentage of population in the tribal village and as such, the entire exercise of recruitment is made meaningless by omitting the meritorious reserved candidate who also have the experience to work in the office.

37. It is disheartening to record that the respondent authorities failed to notice that not even a single Scheduled Tribe candidate is appointed as

Village Assistant in the said tribal village in the recruitment process. The attitudinal mindset explicitly portrays the insensitiveness on the part of the competent authorities. The Constitutional mandate of reaching the goal of social justice is undoubtedly lacking on account of the erroneous implementation of the Rule of Reservations.

38. In view of the above reasonings, the respondents are directed to appoint the petitioner who is a ST candidate fully eligible for the post and grant him all benefits available to the said post after giving age relaxation. Since the authorities who are expected to act properly in implementing the rule of reservation, failed to execute and made the petitioner to run from pillar to post. The 8 years service already rendered by the petitioner in the Village Administrative Office, Erumad Village, which has not been taken into consideration by the respondents 1 to 4. This Court directs the respondents 1 to 4 to count the said service for the purpose of service benefits.

39. The Writ Petition is allowed on the above terms. No costs.  
Consequently, connected miscellaneous petitions are closed.

01.06.2023

msv/nvsri

Index: Yes/No

Internet: Yes/No

Speaking Order: Yes/No

Neutral citation: Yes/No

To

1. The Secretary to Dept of Revenue  
State of Tamil Nadu, Fort Saint George,  
Chennai 600009

2. The Collector of Nilgiris,  
Udhagamandalam,  
Nilgiris District.

3. The Tahsildar  
Pandalur Taluk  
Pandalur 643212

4. The District Employment Officer  
The District Employment Office  
Udhagamandalam,  
Nilgiris District.

WP. No. 24904 of 2013

**J.NISHA BANU, J.,**

msv/nvsri

Pre-Delivery order in  
**W.P. No.24904 of 2013**

01.06.2023