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W.P.No.7660 of 2018

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.09.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.V.KARTHIKEYAN

W.P.No.7660 of 2018
and W.M.P.No.9557 of 2018

M.Kumaresan

.. Petitioner

vs

1.The District Collector,
Dharmapuri District,
Dharmapuri – 636 703.

2.The Assistant Director,
Town Panchayath Department,
Collector Office Compound Back Side,
Dharmapuri District,
Dharmapuri – 636 703.

3.The Executive Officer,
Town Panchayath Department,
Palacode Post & Taluk,
Dharmapuri – 636 808.

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of certiorarified mandamus to call for the entire records relating to the Na.Ka.No.5/2017/a1 dated 05.03.2018 published in the Dina Seithi, Tamil Daily Newspaper dated 15.03.2018 issued by the third respondent and quash the same and consequently direct the respondents to fill up the existing vacancy post to the Scheduled Caste (Arundhathiyar Priority) within a time frame fixed by this Court.

For Petitioner : Mr.T.Karunakaran

For Respondents : Mr.R.Neethi Perumal
Government Advocate



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ORDER

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Writ petition has been filed in the nature of a certiorarified mandamus seeking records relating to Na.Ka.No.5/2017/a1 dated 05.03.2018, published in Dina Seithi, Tamil Daily newspaper dated 15.03.2018, issued by the third respondent, the Executive Officer, Town Panchayat Office, Palacode in Dharmapuri District and quash the same and direct the respondents to fill-up the existing vacancy post of Over Head Tank Watchman in Palacode Panchayat by strictly following the rotation as provided in G.O.(Ms).No.142, dated 14.10.2009, according to which, the immediate next vacancy should be from among Scheduled Caste Priority and more specifically Arundathiyar priority and not Scheduled Caste (General) priority as stated in the Notification.

2. In the affidavit filed in support of the writ petition, it had been stated by the petitioner that after he passed his X standard, he had done Mechanic (Motor Vehicle) course for a period of two years and had obtained National Trade Certificate. He had also registered himself before the Department of Employment and Training, District Employment Office at Dharmapuri on 13.06.2007 and had been renewing the same till the date of filing of the writ petition. He belongs to Scheduled Caste Arundhathiyar.



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3. In the third respondent in the year 2013, one post of Over Head Tank Watchman had fallen vacant. It had been stated that the respondents had, however, filled the post from a candidate belongs to Most Backward Community. It had been stated that G.O.(Ms).No.142 issued by the Personnel and Administrative Reforms (K) Department dated 14.10.2009 and G.O.(Ms).No.65 dated 27.05.2009, provide that candidates belonging to Scheduled Caste (Arundhathiyar Priority) should have been appointed and not the candidate belonging to Most Backward Community. Complaining that rotation basis with respect to reservation was not followed properly and basing that particular statement on the impugned Notification wherein, the third respondent had called for the post to be filled up, Over Head Tank Watchman, but had called for Scheduled Caste (General) priority and not Scheduled Caste (Arundhathiyar) priority, the writ petition has been filed.

4. In the counter affidavit it had been stated that in the previous vacancy, the post was filled up open competition non-priority by way of rotation, the next post should be filled up Scheduled Caste (Arundhathiyar). Thus, the statement made by the petitioner is actually affirmed in the counter affidavit.



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5. The respondents, therefore, are placed under obligation and a mandatory direction is also issued by this Court that they should follow only the rotation basis as provided in G.O.(Ms).No.142 dated 14.10.2009. They will have to strictly implement it and only if there is no candidate available in that particular category they can move to the next category but they must record the reasons for moving to the next category and state in writing as to the non-availability of the particular category in that said reserve post. Therefore, the Notification which had been issued on 05.03.2018 has to be interfered with by this Court and is set aside.

6. The third respondent may follow the stipulations as given in G.O.(Ms).No.142 dated 14.10.2009, as stated above, and as seen from the counter affidavit, the next post should be filled up only by Scheduled Caste (Arundhathiyar) priority and if there are no candidates available, after recording those reasons specifically, then the respondents can move to the next category. But if candidates are available then every effort should be taken to fill up the post by the said category.



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7. With above direction, writ petition stands disposed of.

The respondents may issue a fresh Notification following the Rules and guidelines stipulated in G.O.(Ms).No.142 dated 14.10.2009 and thereafter proceed further in the matter of appointment. The respondents may issue a fresh notification within a period of twelve weeks from the date of receipt of a copy of this order. The petitioner may also apply for the said post but appointment must be done in accordance with the Rules and Regulations following G.O.(Ms).No.142 dated 14.10.2009. No costs. Connected miscellaneous petition is closed.

11.09.2023

Index:Yes/No

Neutral Citation:Yes/No

ssm

To

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C.V.KARTHIKEYAN,J.

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