



W.P. No. 10742 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2023

CORAM :

THE HONOURABLE MR. JUSTICE J. SATHYA NARAYANA PRASAD

W.P. No.10742 of 2021

and

W.M.P.Nos.11372 and 11373 of 2021

Ambika

... Petitioner

Vs.

1 TheTashildar
Sirkali Taluk
Myladuthurai District

2 S. Shamili

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the record in Na.Ka.No:906/2015/A7, dated 14.02.2019 on the file of the first respondent herein as far as the second respondent is concerned and quash the same and consequently direct the first respondent to conduct fresh selection for appointment for the post of Village Assistant, Achalpuram Village, Sirkali Taluk, Myladuthurai District, by following G.O.M.S.No.521, dated 17.06.1998.



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For Petitioner : Mr. S. Arokia Maniraj
For R1 : Mr. S. Silambanan
Additional Advocate General
For R2 : Mr. C. Saravanan

ORDER

This writ petition has been filed to quash the impugned order in Na.Ka.No:906/2015/A7, dated 14.02.2019 of the first respondent herein and consequently, direct the first respondent to conduct fresh selection for appointment for the post of Village Assistant, Achalpuram Village, Sirkali Taluk. Myladuthurai District, by following G.O.M.S.No. 521, dated 17.06.1998.

2. The case of the petitioner is that she belongs to Scheduled Caste community, residing at Thillaividankkam since her birth and Achalpuram Village is situated within three kilometres from her residence and studied upto SSLC and duly registered the qualification on 28.06.2011 in the jurisdictional employment exchange in Nagappatinam district. The petitioner also completed the course of Occupational Skill with the object of applying for the post of Village Assistant and this qualification was also registered on the file of the District Employment Office, Nagappatinam on 24.09.2012.



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When the vacancy aoused for the post of Village Assistant, the petitioner applied for the said post.

3. However, the first respondent did not conduct any written test and appointed 21 Village Assistant only based on personal interview, which is influenced by money, muscle and political power. Finally, the first respondent appointed the Village Assistants from other places without following any norms and the same is in violation as per G.O.MS.No.521, dated 17.06.1998. As per the G.O.MS.No.521, dated 17.06.1988, it is the duty of the first respondent to appoint the Village Assistant who belongs to the same village. The Clause 7(c) in the G.O. reads as "The person appointed to the post shall belongs to the village to which he is appointed or the adjoining village if no suitable candidate is available in the village". Hence, it is crystal clear that it is the duty of the first respondent to appoint the Village Assistant from the same village and the petitioner has applied for the said post since, she is a eligible candidate.

4. The learned counsel for the petitioner would submit that the second respondent, who is residing about 10 kilometres away from the



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place of Achalpuram Village got appointed as Village Assistant, due to the illegal procedure committed by the respondents and without following basic procedure for appointment of Village Assistants. Hence, the petitioner's right to get appointment is grossly violated. The first respondent ought to have seen that the Village Assistant has to be selected and appointed from the same village, and that the failure on the part of the respondent to follow G.O.MS.No.521, dated 17.06.1998 while appointing the village assistant is totally illegal. The first respondent has no authority to appoint the Village Assistant to other taluk and as per the G.O.MS No.521, dated 17.06.1998, the selected candidate shall be of same village and in case of non-availability of the candidates, the neighbouring village candidate as to be selected.

5. The first respondent on 14.02.2019, published a selection list for the post of Village Assistant and on 23.04.2019, the petitioner filed an application under RTI Act, seeking information to provide the copy of the selection list and also the details of the number of persons applied and the process of selection. However, the first respondent submitted the copies on 09.09.2020. Due to covid pandemic, the petitioner could not approach this Court immediately for filing a writ petition. Aggrieved by the order passed



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by the first respondent dated 14.02.2019 and against the selection of the second respondent, the petitioner has come forward by the present writ petition.

6. The counter affidavit was filed by the first respondent on 01.08.2023, wherein the relevant paragraphs are extracted hereunder:

"6. It is respectfully submitted that based on the G.O.Ms.No.521 dated 17.06.1998, Letter from the District Employment Exchange dated 29.04.2018 and Paper Publication dated 03.01.2019 & 04.01.2019 and relevant government order, interview was conducted on 25.01.2019, 28.01.2019 & 29.01.2019, in which 19 candidates were selected by the selection committee and appointment orders were issued by the Tahsildar dated 14.02.2019.

I submit that to averments made in Paragraph Nos.5 to 10 of the Petitioner's affidavit, it is respectfully submitted that there is no irregularities in making appointment to the post of Village Assistants as alleged by the Petitioner. It is relevant to mention here that the Petitioner and the 2nd Respondent are not native village of Achalpuram/the subject village, both the candidates are resident of nearby villages i.e., the Petitioner belongs to Madhanam Village and the 2nd Respondent belongs to Erukoor Post. As per G.O.Ms.No.521 dated 17.06.1998, no candidates are available in Achalpuram



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Village and hence the candidates from nearby villages are considered. Further, the petitioner has secured 14 marks in the interview, whereas, the 2nd respondent has secured 20 marks in interview. After considering the eligibility, the marks secured by the candidates and the performance during the interview, the Selection Committee has appointed 2nd Respondent as she got higher marks than the Petitioner."

7. The learned counsel appearing for the first respondent submitted the list of candidates and the marks secured by each candidate in **which the petitioner name is placed at Serial No.14 and marks obtained by her is 14 and the second respondent is placed at Serial No.112 and secured 20 marks.**

8. Heard both side and perused the materials available on record.

9. The petitioner, who belongs to Scheduled Caste community has applied for the post of Village Assistant and she is residing near Achalpuram Village in Nagapattinam district and she has registered in the District Employment Office, Nagappatinam district on 28.06.2011. The



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first respondent has called for the appointment towards the vacancy for the post of Village Assistant and appointed 21 Village Assistant based on personal interview.

10. **The main contention of the petitioner is that the second respondent who was appointed as Village Assistant is residing 10 kms away from Achalpuram Village, which is a gross violation of G.O.Ms.No.521, dated 17.06.1998 in which Clause 7(c) in the G.O. reads as "The person appointed to the post shall belongs to the village to which he is appointed or the adjoining village if no suitable candidate is available in the village" and the same is extracted hereunder for better appreciation.**

"6.Educational Qualification:-

No person shall be eligible for appointment to the post unless he has passed V standard in a recongnized school, namely, a School maintained by or opened with the sanction of the Government of TamilNadu or to which recognition has been accorded by the Director of School Education under the TamilNadu Educational Rules with sufficient knowledge to read and write Tamil.

7.Other Qualification:-

a) No person shall be eligible for appointment to the post



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unless

*i) he is able to ride a bicycle;
ii) he satisfies the appointment authority that the character and antecedents are such as to qualify him for the post; and*

iii) produce a certificate regarding his physical fitness for the post in the Form prescribed under rule 10 of the Fundamental Rules.

b) No person shall be eligible for appointment to the post if he has more than one spouse living or if such a person has entered into or contracted a marriage with a person having spouse living.

c) The person appointed to the post shall belong to the village if no suitable candidate is available from that village."

11. In the counter affidavit filed by the first respondent, it is mentioned that the petitioner has secured only 14 marks whereas the second respondent has secured 20 marks in the interview and hence, the second respondent was selected. The mark list was also submitted before this Court by the learned counsel appearing for the first respondent in which the second respondent name is placed at Madhanam village and Erukoor post **Serial No.112** and the petitioner name is at **Serial No.14** and the mark mentioned against the second respondent is 20 and against the petitioner is



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14 respectively. Since, the petitioner has secured less mark, she was not considered for the appointment by the first respondent. **It is also mentioned in the counter affidavit that the petitioner as well as the second respondent are not native village of Achalpuram/ the subject village and both of them are the resident of the nearby villages like Madhanam village and Erukoor post but the second respondent was selected and appointed since she secured higher marks than the petitioner.**

12. In view of the above factual matrix of the case, this Court is of the considered view that the impuged order passed by the first respondent in Na.Ka.No:906/2015/A7, dated 14.02.2019 is liable to be confirmed and the same is hereby confirmed.

13. In the result, the Writ Petition stands dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

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Index : Yes/No
Speaking Order : Yes/No
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J. SATHYA NARAYANA PRASAD, J.

dpa/stn

To

The Tashildar,
Sirkali Taluk,
Myladuthurai District.

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and

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