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Cont.P.No.2617 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.02.2023

CORAM

THE HONOURABLE **DR. JUSTICE ANITA SUMANTH**

Cont.P.No.2617 of 2022

M.Sivasubramanian

...Petitioner

Vs.

1. Dr.NitenChandra,
Secretary,
The Government of India,
Law & Justice Department,
4th Floor 'A' Wing, Shastri Bhavan,
New Delhi – 110 001.

2. Mr.Niraj Kumar
The Deputy Legal Advisor and
Competent Authority (Noraties)
Ministry of Law & Justice
The Government of India,
4th Floor 'A' Wing, Shastri Bhavan,
New Delhi – 110 001.

...Respondents

Prayer: Contempt Petition filed under Section 11 of the Contempt of Courts Act, 1971, to initiate contempt proceeding against the alleged respondents for willfully and deliberately disobeying the judgment dated 22.03.2022 of this Court passed in W.P.No.33977 of 2019.

For Petitioner : Mr.Lourdu Savio
For Respondents : Mr.AR.L.Sundaresan
Addl. Solicitor General
assisted by
Mr.V.Chandrasekaran



Senior Panel Counsel

ORDER

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Contempt is alleged as against order dated 22.03.2022 passed in W.P.No.33977 of 2019. The said order was one passed in a batch of Writ Petitions challenging the process of appointment to the post of Notary Public in Puducherry.

2. The operative portion of order dated 22.03.2022 and the conclusion is as follows:

“12. While I am inclined to set aside the entire process of appointments made in the aforesaid irregular manner, I believe that credence must be had to the fact that 25 appointments have been made properly and those advocates are stated to be holding positions as Notary Public since 2019 onwards. In my view, there is nothing to be gained by disturbing their appointments.

13. Admittedly and as on date, there are another 28 posts that are vacant. Let the applications of the petitioners before me be considered for appointment in the 28 available vacancies, subject to they being competent and otherwise qualified. They shall be appointed and orders to such effect shall be passed, within a period of four weeks from today.

14. W.P.Nos.7049, 7054, 3746, 3749, 3751, 3752, 3755, 13007 & 13010 of 2020 & 10215 of 2019, are disposed in the aforesaid terms. W.P.No.33977 of 2019 seeking mandamus is dismissed as no mandamus is liable to be issued in respect of selection, such selection involving a factual determination that the candidate in question is possessed of the requisite qualifications. However, the interest of this petitioner is also covered in the direction as above, in the case of the other petitioners. Connected miscellaneous petitions are closed. No costs.”



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3. The Writ Petition of the Contempt Petitioner has been dismissed, since the prayer was for mandamus and I was of the view that no mandamus is liable to be issued in respect of his selection which involves determination as to whether the candidate is eligible for the post for which selection is sought. However, since the other Writ Petitions that had been closed directing the respondents to consider the available applications before them on merits, the petitioner in W.P.No.33977 of 2019 was extended the same benefit.

4. A counter has been filed on behalf of the respondents, wherein at paragraph Nos. 5 and 6, it is stated as follows:

“5. I respectfully submit that the minimum qualifying cut-off mark (pass mark) was 60 out of 100 and the petitioner scored only 51 out of 100. This Hon'ble Court in its order while dismissing the writ petition of the contempt petitioner was pleased to make it clear that petitioner has to be considered subject to him being competent and otherwise qualified. Thus, on consideration of the case of the petitioner, the petitioner could not be selected and appointed as Notary Public since he had not secured the minimum cut off mark. Hence, the petitioner is not entitled to get the same by filing contempt petition which is a misuse of process of Law and Court especially in view of the fact that the petitioner's writ petition was dismissed and this Hon'ble Court subject to the direction to consider the petitioners subject to they being competent and otherwise qualified.

6.I respectfully submit that a fresh Notary Interview was conducted by this Department on 16-17th July, 2022, wherein the following Writ Petitioners whose petitions had been



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disposed off vide common order dated 22.03.2022 have applied and were selected –

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S.No.	Name of Petitioner	W.P.No.	Result at S.No.
1	R.Rajaprakash	10215 of 2019	13
2	R.Nagalakshmy	3746 of 2020	63
3	J.Vanitha	3751 of 2020	39
4	V.Jayamarimuthu	3752 of 2020	23
5	M.Periyanayaki Mary Mani	3755 of 2020	24
6	S.Prebagaran	13007 of 2020	96
7	B.Inba Gunasekar	13010 of 2020	94
8	R.Praveen Kumar	3749 of 2020	20

5. The individuals tabulated as 1 to 8 above are the petitioners whose cases were considered in paragraphs 13 and 14 of order dated 22.03.2022. Pending Writ Petitions, there was a call for applications on 29.06.2022 and admittedly, the 8 persons whose details are tabulated above have responded to that call.

6. Also, admittedly, as conveyed by learned counsel for the petitioner before me now, that there was no response by this petitioner to that call, since he was of the view that it would comprise his Writ Petition. Thus, a conscious and deliberate decision has been taken by the petitioner to rest content with the application made by him at the first instance which has



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come to be considered by the respondents and found lacking.

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7. As per the counter filed by the respondents, the application of the petitioner which was already on record was considered and it was found that he had obtained 51 out of 100 marks, whereas, the cut off was 60 marks out of 100. It is for the aforesaid reason that the petitioner was not called for the interview conducted on 16th and 17th of July, 2022 in which 8 candidates tabulated above, were called and found successful for appointment as Notary Public.

8. In light of the narration above, I find no irregularity in the process much less contempt committed by the respondents and this Contempt Petition is dismissed. No costs.

9. The respondents shall communicate the marks obtained by the petitioner and the basis on which his application for appointment as Notary Public was rejected in order to enable him to take further action in this regard, if he so desires. Let this be done within a period of two (2) weeks from date of receipt of a copy of this order.

08.02.2023

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Index : Yes/No

Speaking Order

Neutral Citation : Yes



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Dr.ANITA SUMANTH,J.

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