



W.P.No. 30159 of 2018

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM:

THE HONOURABLE MRS. JUSTICE V.BHAVANI SUBBAROYAN

Writ Petition No. 30159 of 2018
and
W.M.P. Nos. 35201 & 35202 of 2018

1. P. Elumalai
2. S. Karthick
3. J. Vinayagam
4. D. Ranjithkumar
5. D. Naveen
6. M. Yuvarani
7. S. Sakithiya
8. S. Thiripurasundari
9. G. Mookkammal
10. F. Bori Elson
11. S. Soniya
12. S. Dhayanand
13. M. Santhanabarathi
14. K. Boopathiraja
15. J. Solomon Arockiadoss
16. M. Thangamalar
17. P. Karthiga
18. J. Ragavan
19. J. Shiny Kosma
20. C. Prabakaran
21. M. Vijaya Manikandan
22. M. Ranjitha
23. A. Sasikumar
24. C. Senthil Murugan



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25. S. Vignesh
26. V. Rajesh
27. T. Durairaj
28. B. Vignesh
29. A. Arjun
30. M. Ashok Kumar
31. I. Selvaraja
32. E. Senthil Babu
33. K. Chennappan
34. S. Priya Nisha
35. N. Vijayalakshmi
36. I. Divya Mary
37. V. Divya Priya
38. A. Buvaneshwari
39. A. Rajkumar
40. S. Pachaiyappan
41. S. Gopalakrishnan

.. Petitioners

Versus

1. The State of Tamil Nadu
Represented by its
Agricultural Production Commissioner
and Secretary to Government
Secretariat, Fort St. George
Chennai - 600 009.
2. The State of Tamil Nadu
Represented by its Secretary to Government
Personnel & Administrative Reforms (Per. R) Department
Secretariat, Fort St. George
Chennai - 600 009.
3. The Director of Horticulture and Plantation Crops,
Ezhilagam, Chepauk
Chennai - 600 005



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4. The Tamil Nadu Public Service Commission

Represented by its Member Secretary

TNPSC Road, VOC Nagar,

Park Town

Chennai - 600 003.

5. The Gandhigram Rural Institute - Deemed University

Represented by its Registrar

Gandhigram - 624 3012

Dindigul District.

...Respondents

Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records on the file of the 3rd respondent in connection with the impugned clarification letter issued by him in his Letter No. FSE1/6027/2011, dated 09.08.2018 and subsequent impugned Rejection List published by the 4th respondent in his Official Website vide his proceedings No. Nil, dated 07.11.2018 and quash both as illegal and arbitrary insofar as the petitioners case are concerned and consequently, direct the 4th respondent to declare that the Two years Diploma in Agriculture with one year Post Diploma in Commercial Horticulture offered by the 5th respondent University is equivalent to the two years Diploma in Horticulture offered by the Tamil Nadu Agricultural University from the date of acquisition of the Diploma courses and thereby direct the 1st respondent to incorporate the same in Column 3 of Rule 5(b) of the Special Rules for the Tamil Nadu Horticultural Subordinate Service Rules and appoint the petitioners in the post of Assistant Horticultural Officer based on the Certificate Verification done on 23.10.2018 in the light of the proceedings of the 2nd respondent dated 26.09.1994 within the time limit that may be stipulated by this Court.

For Petitioners	:	Mr. S. Mohamed Ansar
For RR 1 to 3	:	Mr. D. Gopal, Government Adv.
For R4	:	Mr. R. Bharnidharan
For R5	:	Mr.Ma.Pa. Thangavel



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ORDER

This Writ Petition has been filed challenging the order passed by the 3rd respondent in connection with the impugned clarification letter issued by him in his Letter No. FSE1/6027/2011, dated 09.08.2018 and subsequent impugned Rejection List published by the 4th respondent in his Official Website vide his proceedings No. Nil, dated 07.11.2018 and quash both as illegal and arbitrary insofar as the petitioners case are concerned and consequently, direct the 4th respondent to declare that the Two years Diploma in Agriculture with one year Post Diploma in Commercial Horticulture offered by the 5th respondent University is equivalent to the two years Diploma in Horticulture offered by the Tamil Nadu Agricultural University from the date of acquisition of the Diploma courses and thereby direct the 1st respondent to incorporate the same in Column 3 of Rule 5(b) of the Special Rules for the Tamil Nadu Horticultural Subordinate Service Rules and appoint the petitioners in the post of Assistant Horticultural Officer based on the Certificate Verification done on 23.10.2018 in the light of the proceedings of the 2nd respondent dated 26.09.1994 within the time limit that may be stipulated



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by this Court.

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2. The case of the petitioners is that they have completed the two years Diploma in Agriculture and one year post Diploma Course in Commercial Horticulture in the 5th respondent University. The said University is one among the most reputed centrally funded Universities under the control of Ministry of Human Resource Department. Moreover, the University has been accredited with "A" Grade by the National Assessment and Accreditation Council (NAAC). While that being the case, the 4th respondent vide his Advertisement No. 497 and notification No. 10/2018, dated 25.05.2018 invited applications from eligible candidates through Online mode to fill up the 757 (Regular vacancies) and 48 (shortfall vacancies for SC and ST) posts of Assistant Horticultural Officer by way of direct recruitment. Since the petitioners are fully eligible to apply for the said post, in view of the Government Letter issued by the 2nd respondent dated 26.09.1994 as well as the Special Rules for the Tamil Nadu Horticultural Subordinate Service Rules, they applied for the said posts. On scrutiny of their applications, they were called upon to write the written examination conducted on 11.08.2018. Accordingly, the



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petitioners attended the written examination. Thereafter, the 4th respondent issued call letters to the petitioners on 30.10.2018 to appear for certificate verification and counselling scheduled on 23.10.2018. When the petitioners were waiting for the counselling scheduled on 23.10.2018 as well as for Certificate Verification at about 11.00 am., they were informed that they could not be permitted to take part in the counselling for the reason unknown to them. In this regard, the petitioners enquired with the 4th respondent and he had shown the photostat copy of the impugned clarification letter of the 3rd respondent dated 09.08.2018 as the reason for not permitting them for the counselling. In the said letter, the 3rd respondent has arbitrarily stated that the educational qualification of two years Diploma in Agricultural with one year Post Diploma in Commercial Horticulture is not the requisite and eligible qualification for applying to the post of Assistant Horticulture Officer as per the Tamil Nadu Horticultural Subordinate Service Rules. Subsequently, the 4th respondent has published the impugned Rejection List in his official website on 07.11.2018 for appointment to the post of Assistant Horticultural Officer by invoking Clause 6 (B) of the Notification dated 25.05.2018 in which the names of the petitioners were included.



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According to the petitioners, the clarification letter dated 09.08.2018 of the third respondent and the impugned rejection list published by the 4th respondent in his official website are not only based on non application of mind but also arbitrary for the reason that the 3rd respondent has no jurisdiction to issue such a clarification in regard to the Tamil Nadu Horticultural Subordinate Service Rules. The third respondent is not only mis-interpreting the Rules but also misleading the 4th respondent which led to deprivation of the appointment of the petitioners.

3. The petitioners would further contend that the 5th respondent University is not offering two years Diploma Course in Horticulture instead they are offering Two years Diploma in Agriculture and one year post Diploma in Commercial Horticulture and the same is considered equivalent. It is stated that many candidates having done two years Diploma in Agriculture with one year in Post Diploma in Commercial Horticulture have been accommodated in the post of Assistant Horticulture Officer. Further, on comparing the syllabus of two years Diploma in Horticulture Course offered by Tamil Nadu Agricultural University and two years Diploma in Agriculture and one year post



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Diploma in Commercial Horticulture Courses offered by the 5th respondent, it is amply clear that the syllabus are one and the same and in fact, the 5th respondent University is prescribing more papers in Horticulture than any other Universities. The copy of syllabus of the Courses have been enclosed in the typed set of papers and on perusal of the same, it would show that the subject in the syllabus of both Diplomas would clearly reveal that the syllabus are one and the same. Hence, the course offered by the 5th respondent University i.e. two years Diploma in Agriculture with one year Post Diploma in Commercial Horticulture has to be mandatorily incorporated in Column 3 of Rule 5 (b) of the Rules. When the factual aspects are being so, the act of the respondents 3 & 4 in denying the opportunity to the petitioners to participate in the counselling is illegal and arbitrary. Moreover, the 5th respondent assured them that two years Diploma in Agriculture with one year post Diploma in Commercial Horticulture is equivalent to the course of two years Diploma in Horticulture as per the syllabus and the petitioners are entitled to be appointed in the post of Assistant Horticultural Officer in pursuant to the Government Letter issued by the 2nd respondent dated 26.09.1994 as well as, as per Rule 5 (b) of the Subordinate Service Rules. Accordingly, he



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sent a letter in Ref. Reg/S.Aгри/2018-2019 dated 23.10.2018 to the 4th respondent requesting him to consider the Post Diploma in Commercial Horticulture awarded by the Gandhigram Rural Institute for the purpose of employment in Public Services and thereby consider the qualified candidates of the University for appointment to the said post. But, as on date, the 4th respondent had not taken any effective steps to consider the letter of the 5th respondent and to accommodate the petitioners in the post of Assistant Horticultural Officer. On verifying the official website of the 4th respondent, the petitioners learnt that as of now there are 171 vacancies in the post of Assistant Horticultural Officers. Therefore, the petitioners have come forward with the present writ petition under Article 226 of the Constitution of India.

4. A counter affidavit has been filed by the 3rd respondent stating that based on the estimated vacancies of 805 posts of Assistant Horticultural Officer for the panel year 2016-2017, the Tamil Nadu Horticulture Subordinate Service the applications have been called for. On scrutiny of the applications, 727 candidates (including the petitioners) have been called for Certificate Verification. The educational



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qualification prescribed for this post is "a pass in Higher Secondary Examination" and "a pass in two years Diploma in Horticulture in the institutions approved by the Tamil Nadu Agricultural University or Director of Horticulture and Plantation Crops or from the Gandhigram Rural Institute". The petitioners were called for certificate verification based on their Online uploading which later found to have contained wrong entries by the fourth respondent herein, since they did not possess the prescribed two years Diploma in Horticulture and after verification, the application of the petitioners, who entered wrong educational qualification, were summarily rejected. On verification of their candidature, the Tamil Nadu Public Service Commission found that the educational qualification entered by the petitioners is different from that of the online entries and immediately the Tamil Nadu Public Service Commission has sought for a clarification with the 3rd respondent as to whether these petitioners are eligible for appointment to the post of Assistant Horticultural Officer, since their main subject in Diploma is two years in Agriculture and it is quite contrary to two years Diploma in Horticulture. As such, it was clarified by the third respondent that the candidates possessing two years Diploma in Agriculture are not eligible



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for holding the post of Assistant Horticulture Officer. There are separate Recruitment for these two years Diploma in Agriculture candidates for the post of Assistant Agriculture Officer in the Departments of Agriculture, Seed Certification, Agriculture Marketing and Agri Business and Agricultural Engineering. It is submitted that the Department of Horticulture and Plantation Crops is technically a separate department. The Special Rules for Tamil Nadu Horticulture Subordinate Service for the recruitment of Assistant Horticulture Officers and Deputy Horticulture and Deputy Horticultural Officers was issued in the year 2015 wherein two years Diploma in Agriculture has no place to the post of Assistant Horticultural Officer. Hence it is submitted that the candidates who possess two years Diploma in Horticulture only can compete to the posts of Assistant Horticultural Officer. There are no other avenues to these two years Horticulture Diploma holders as against the holders of two years Diploma in Agriculture where they have more recruitment avenues. It is also pointed out that these petitioners who are possessing two year Diploma in Agriculture are governed by the Tamil Nadu Agriculture Subordinate Service and they have no *locus standi* to grab the chances of candidates possessing two years Diploma in Horticulture, who are



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governed by the Tamil Nadu Horticulture Subordinate Services.

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Moreover it is submitted that the claim of the petitioners that 171 vacancies are in existence in the Department of Horticulture has no relevance to fill those vacancies with Agriculture Diploma candidates. The petitioners have wrongly uploaded the particulars online without having prescribed educational qualification and hence, their claim had been rejected by the competent authority. While that being the case, the petitioners' reference of Lr.No. 69002/Per.R/1993-7, dated 26.09.1994 has nothing to do with their claim. It relates to the appointments made in the erstwhile Agriculture Department under Tamil Nadu Agriculture Subordinate Services, before framing of Special Rule for Tamil Nadu Horticulture Subordinate Service for Department of Horticulture and Plantation Crops. It is submitted that ever since 1994, both Agriculture and Horticulture Departments have witnessed plenty of changes in their fields and development, both academically and technically. As such the petitioners reference in this context is outdated and unjustified. Hence, the petitioners applications were rejected as they have not possessed educational qualification (i.e. 2 years Diploma in Horticulture) and have wrongly claimed their educational qualification in their Online application



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for the post of Assistant Horticultural Officer 2016-2017. Therefore, the third respondent prayed for dismissing the above writ petition.

5. A counter affidavit has been filed by the fourth respondent stating that the Tamil Nadu Public Service Commission in its Notification No. 10 of 2018, dated 25.05.2018 invited applications from eligible aspiring candidates for appointment by direct recruitment to the post of Assistant Horticulture Officer included in Tamil Nadu Horticulture Subordinate Service. The number of vacancies announced in the notification is 805 for which the written examination was held on 11.08.2018. Based on the marks obtained by the candidates in the written examination, 727 candidates have been called for certificate verification which was held on 23.10.2018. As per Para No.6(B) of the Notification No. 10/2018, dated 25.05.2018 the prescribed educational qualification for the post of Assistant Horticultural Officer is a pass in Higher Secondary Examination and a pass in the two years Diploma Course in Horticulture in the Institutions approved by the Tamil Nadu Agricultural University or Director of Horticulture and Plantation Crops or from the Gandhigram Rural Institute. The petitioners participated in the Certificate verification



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along with the other candidates based on their claim in their online application. At the time of Certificate verification, it was found that the educational qualification entered in their online application is not the prescribed qualification. The qualification possessed by the petitioners is contrary to the one clarified in the clarification letter dated 09.08.2018 issued by the 3rd respondent/The Director of Horticulture, who is also the Head of the Department for the above post and also offering the course of Assistant Horticulture Officer. The above said clarification letter is only a internal Department communication. The Rule is very clear and the Tamil Nadu Public Service Commission is acting based on the Rule and terms of notification. Therefore, the applications of the above petitioners were rightly rejected for not possessing the required qualification viz., two year Diploma in Horticulture which is the prescribed qualification as per Para 6(B) of the Notification dated 25.05.2018. It is also submitted that Para No 12 (L) of the Notification No. 10/2018, dated 25.05.2018 states that "Incomplete applications and applications containing wrong claims or incorrect particulars relating to category of reservation/other basis qualification/eligibility wise/ age/communal categories / educational qualification/physical qualification and other basic eligibility criteria will



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be liable for rejection. Hence, in the circumstances stated above, the petitioners applications were rejected as they have not possessed the prescribed educational qualification (i.e., 2 years Diploma in Horticultural) and have wrongly claimed their educational qualification in their online application as per para 6 (B) and 12 (L) of the Notification No. 10/2018, dated 25.05.2018 for the post of Assistant Horticultural Officer 2016-2017 and Assistant Horticultural Officer (Shortfall vacancies for SC/ST candidates only). Hence, the fourth respondent prays to dismiss the above writ petition.

6. Heard the counsel for both sides. On a perusal of the records, it is seen that orders were issued by the Government, restructuring the Directorate of Horticulture and Plantation Crops and 123 posts in the cadre of Deputy Agriculture Officer and 1633 posts in the cadre of Assistant Agriculture Officer have been deployed to Directorate of Horticulture and Plantation Crops from the Directorate of Agriculture. After expiry of 5 years from the date of issue of the Government order, the posts shall stand permanently transferred to Directorate of Horticulture and Plantation Crops and shall be filled up by the Directorate of



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Horticulture and Plantation Crops by duly following the Service Rules of the Directorate of Horticulture and Plantation Crops. Hence, it has become necessary to include the deployed staff of Deputy Agriculture Officer and Assistant Agriculture Officer as Deputy Horticulture Officer and Assistant Horticulture Officer and to issue a separate Special Rules for Tamil Nadu Horticultural Subordinate Service. Hence, the Director of Horticulture and Plantation Crops has sent necessary proposal in this regard. The following notification has been published in the Tamil Nadu Government Gazette.

Notification:- In exercise of the powers conferred by the proviso to Article 309 of the Constitution of India, the Governor of Tamil Nadu hereby makes the following "Special Rules for Tamil Nadu Horticultural Subordinate Service"[Section 60 in Volume III of Tamil Nadu Services Manual 1970]. The Rules hereby made shall come into force on and from 24.12.2007

2. Appointment:-

(a) Appointment to the posts specified in column (1) of the Table below shall be made by the methods specified in the corresponding entries in column (2) thereof.

THE TABLE

Posts (1)	Method of Appointment (2)
(1) Deputy Horticulture Officer	By Promotion from among the



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Posts (1)	Method of Appointment (2)
	holders of the post of Assistant Horticulture Officer.
(2) Assistant Horticulture Officer	By Direct Recruitment

ANNEXURE

Classes of Post. (1)	Method of Appointment (2)	Qualification (3)
<u>1. Class-I:</u> Deputy Horticulture Officer	By Promotion from among the holders of the post of Assistant Horticulture Officer	Must have rendered a service for a period of not less than ten years as Assistant Horticulture Officer
<u>2. Class- II:</u> Assistant Horticulture Officer	By Direct Recruitment	A pass in Higher Secondary Examination and a pass in the two years Diploma Course in Horticulture in the Institutions approved by Tamil Nadu Agricultural University/Gandhigram Rural University/Director of Horticulture and Plantation Crops.

7. On a further perusal of the affidavit filed in support the writ petition as well as the averments made in the counter affidavit, it is seen that the Tamil Nadu Public Service Commission in its Notification No.10/2018, dated 25.05.2018 invited applications to fill up 805 posts



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from eligible aspiring candidates for appointment by direct recruitment to the post of Assistant Horticulture Officer included in Tamil Nadu Horticulture, Subordinate Service. The applicants were called upon to attend a written examination on 11.08.2018 and based on the marks obtained in the written examination, 727 candidates, including the petitioners, have been called for certificate verification on 23.10.2018. As per the Para.No.6(B) of the Notification No.10/2018, dated 25.05.2018 the prescribed educational qualification for the post of Assistant Horticultural Officer is (i) a pass in Higher Secondary Examination and (ii) a pass in the two years Diploma Course in Horticulture in the Institutions approved by the Tamil Nadu Agricultural University or Director of Horticulture and Plantation Crops or from the Gandhigram Rural Institute. The petitioners participated in the Certificate Verification along with other candidates based on their claim in the online applications. At the time of certificate verification, it was found that the petitioners have claimed their educational qualification in their online application differently and it came to light when they produced the certificates to substantiate their educational qualification. According to the respondents, the petitioners are well aware about the procedure and educational qualification for the post



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while making the declaration given in their online application. The petitioners, after fully participating in the selection process, which includes a written examination, they cannot turn around and challenge their non-selection. In any event, the petitioners did not possess the prescribed educational qualification as per the notification/terms of notification and therefore the principle of estoppels will squarely apply in the instant case.

8. The clarification letter dated 09.08.2018 has been issued by the 3rd respondent clarifying the equivalence or otherwise of the qualification required to be possessed for selection to the post. Such a clarification is only an internal Communication. As the qualification possessed by the petitioners, morefully set out in their on-line applications is not the one prescribed in the notification, their applications were rightly rejected for not possessing the required qualification viz., two year Diploma in Horticulture which is prescribed qualification as per Para No.6(B) of the Notification dated 25.05.2018.

9. In the counter affidavit of the third respondent, the



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qualification possessed by the petitioners Sl.No. 1 to 32 has been mentioned as Post Diploma in Commercial Horticulture as against the required qualification of two year Diploma Course in Horticulture and remaining candidates viz., Sl.Nos.33 to 41 have wrongly claimed that they have studied Diploma Course in Horticulture and et., but studied Diploma in Agriculture. Therefore, the applications of the petitioners have been rejected as per Para No.6(B) of the Commission's Notification dated 25.05.2018 as they does not possess the prescribed qualification viz., Two year Diploma in Horticulture. It is also submitted that Para No 12 (L) of the Notification No. 10/2018, dated 25.05.2018 states that "Incomplete applications and applications containing wrong claims or incorrect particulars relating to category of reservation/other basis qualification / eligibility wise/ age/communal categories / educational qualification/physical qualification and other basic eligibility criteria will be liable for rejection. In the light of the above clause, the rejection of the applications of the petitioners does not call for any interference by this Court.

10. In the light of the above, the writ petition is dismissed. No



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costs. Consequently, connected Miscellaneous Petitions are closed.

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Index by : Yes/No

Speaking Order : Yes/No

Neutral Citation : Yes/No



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