



W.P.(MD).No.2135 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 26.09.2023

PRONOUNCED ON : 17.11.2023

CORAM:

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD)No.2135 of 2023

and

W.M.P.(MD)Nos.1901 to 1903 of 2023

T.Priskala

... Petitioner

Vs.

1.The Additional Chief Secretary-cum-
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.

2.The District Collector,
Thoothukudi District,
Thoothukudi.

3.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.

4.The Tahsildar,
Ettayapuram Taluk,
Ettayapuram,
Thoothukudi District.

5.Rukumani

6.Praveenkumar



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7.Shruthi

8.Banumathi

9.Jeyakumar

10.Pechimurugan

11.Mariselvi

12.M.Chitra

13.Marimuthu

... 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 on the file of the 4th respondent in her notification No.அ7/5420/2020 dated 10.10.2022 consequential impugned appointment order of the respondent nos.5 to 13 in Na.Ka.No.அ7/5420/2020 dated 13.01.2023 on the file of the fourth respondent and quash the same as illegal and consequently directing the fourth respondent to fresh notification by strictly adhering the rule of reservation more specifically vertical and horizontal reservation as well as the 200 point Reservation Roster System, which is to be followed as per Section 53 of Tamil Nadu Village Assistant Service Rules by following G.O.Ms.No.122, P & AR Department, dated 02.11.2021.

For Petitioner	: Mr.S.R.Rajagopal, Senior Counsel Mr.G.Thalaimutharasu
For RR 1 to 4	: Mr.Veera Kathiravan Additional Advocate General Mr.Thambidurai Government Advocate
For RR5 to 13	: Mr.Porkodi Karnan For Polax Legal Solution



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ORDER

The prayer in the writ petition is as follows:-

The Writ petition has been filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order of the 4th respondent in her notification No.அ7/5420/2020 dated 10.10.2022 consequential impugned appointment order of the respondent nos.5 to 13 in Na.Ka.No.அ7/5420/2020 dated 13.01.2023 on the file of the fourth respondent and to direct the fourth respondent to fresh notification by strictly adhering the rule of reservation more specifically vertical and horizontal reservation as well as the 200 point Reservation Roster System, which is to be followed as per Section 53 of Tamil Nadu Village Assistant Service Rules by following G.O.Ms.No.122, P & AR Department, dated 02.11.2021.

The case of the petitioner in nutshell is as follows:-

2.The petitioner has studied up to 9th standard. She lost her husband Thiru.A.Thirupathi due to Covid-19 on 25.05.2021 and he was survived by the petitioner and their two minor children namely T.Akilesh and T.Ashika Sowbhaga. Since the petitioner was struggling to meet her day to day



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livelihood, she made an application seeking employment, which is suitable for her educational qualification on 05.07.2021 and 11.05.2021 respectively.

The Tahsildar, Ettayapuram Taluk, Ettayapuram/4th respondent herein vide communication dated 08.07.2021, informed the petitioner to register her name in the employment exchange. After receiving the said communication, the petitioner registered her name in Thoothukudi Employment Exchange on 12.03.2022. While so the fourth respondent vide notification dated 10.10.2022, invited applications for the post of Village Assistant in Ettayapuram Taluk, wherein the petitioner is residing. In response to the same, the petitioner made an application for the post of Village Assistant in Manjanayakkanpatti, Keelaeral, Keelanattukurichi and Semmapudur through online on 01.11.2022. The Government of Tamil Nadu has issued G.O.Ms.No.24 Social Welfare and Women Empowerment [SW.5(1)] dated 11.06.2021, giving priority in all the Government Schemes to the children as well as the husband or wife who has lost their spouse due to covid-19 and living with their children. The Government also issued another Government order way back in the year 1976 itself, giving priority to the destitute widow in the matter of employment in G.O.(Ms).No.188 Personnel and Administrative Reforms (Personnel-P) Department dated 28.12.1976. However, the notification was issued by the fourth respondent on



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10.10.2022. Since neither of the priorities for reservation were mentioned, the petitioner filed Writ Petition in W.P.(MD)No.27367 of 2022 seeking employment and this Court was pleased to pass an order in favour of the petitioner on 02.12.2022 and the relevant portion of which is extracted as follows:-

“2.The petitioner's husband died during the recent pandemic. The petitioner is said to be a destitute widow. She is an aspirant for the post of Village Assistant. Destitute widows are entitled to preferential treatment. In this regard, the petitioner has given a representation dated 01.11.2022. The respondent is directed to take it into account while finalizing the selection process.”

3.Though the fourth respondent was directed to follow the priority criteria while making appointment to the post of Village Assistant, the same was not followed by giving priority either to the petitioner or any other priority candidates. The fourth respondent had made appointments contrary to Government order, which gives priority to various section of candidates. Though the Tahsildar of the nearby Taluk namely Kayathar Taluk, has issued appointment orders to various candidates prioritising destitute widows and covid-19 victims following the order passed by this Court in



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W.P.(MD)No.27367 of 2022 filed by the petitioner. The fourth respondent did not follow the direction of this Court in the case of the petitioner.

Though the total number of 9 posts were notified for the post of Village Assistant in Ettayapuram Taluk, atleast five of them are been appointed violating the rules of reservation as well as priority. To be specific, the violations in selecting the candidates for the post of Village Assistant is extracted as follows:-

Sl.No.	Selected candidates	Village	Violation
1.	Mr.S.Chitra, W/o.Senthilkumar, 2/115, Middle Street, Velutipatti Village, Ettayapuram Taluk.	Semmapudu	30 Kms Distance between her village and appointment place. She is the close associate and nearby resident of the Tahsildar. Her husband is doing business at Singapore and having mulberry farms in her village. Furthermore, she did not make any application for the appointed pale and she was issued with the appointment order before publishing selection list.
2.	Mr.Jeyakumar, S/o.Ayyanar, No.1/47, North Street, Solapuram Vilalge, Ettayapuram Taluk,	Keela Eral	His mother Saraswathy working as Village Assistant at Kannakattai village past 10 years and she is acting as personal assistant to the Tahsildar by doing domestic work at her home and all along she travels with her in official jeep, the appointment order was not issued through post and the appointment order was issued directly to him in person even before publishing selection list.
3.	Mrs.Rukkumani W/o.Kathirvelsamy, No.4/1, South street, Koral Chinnavanayakkanapa ati, Ethilappanayakkanpat ti Village,	N.Pudupatti	17 Kms distance between her village and appointment place. She is close blood relative of Tahsildar I.e., cousin of 4 th respondent. The Tamil Medium priority suppressed in the notification itself and issued the appointment order before publishing selection list.



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4.	Mrs.Mariselvi, W/o.Balamurugan, No.2/88, West Street, Melakaranthai Vilalge, Ettayapuram	Keelanattukurich i, Sakilipatti	Her husband is working in the Tamil Nadu Grama Bank and issued the appointment order before publishing selection list.
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4.Since the appointments made by the fourth respondent is contrary to the Government Orders, the same was not uploaded in the official website of the State Government as directed by the Commissionerate of Revenue Administration and Disaster Management, dated 28.09.2022 and the entire process of selection has been made on favouritism and nepotism.

5.Therefore, the petitioner sent a detailed representation to the respondents 1 to 4 on 20.01.2023 and also issued a legal notice to the fourth respondent on 20.01.2023. In furtherance to the same, the petitioner has made an application under RTI Act on 20.10.2023 and 27.01.2023. Only on receipt of the same, the fourth respondent uploaded the impugned orders as per G.O.Ms.No.122 Personnel and Administrative Reforms Department dated 02.11.2021. The fourth respondent is duty bound to follow the Rule of Reservation, Roster and priority as per G.O.Ms.No.142, Personnel and Administrative Reforms Department dated 14.10.2009, G.O.Ms.No.55, Personnel and Administrative Reforms Department dated 08.04.2010,



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G.O.Ms.No.145, Personnel and Administrative Reforms Department dated 30.09.2010, G.O.Ms.No.21, Welfare of Differently Abled Persons Department dated 30.05.2017 and G.O.Ms.No.122, Personnel and Administrative Reforms Department dated 02.11.2021. The appointments were completely made suppressing the priority categories namely, PSTM, Differently Abled (blind & Low vision), Dependant of Ex-servicemen etc. All the appointments were made without following 200 point Roster system.

6.In view of the same, the petitioner has filed this Writ Petition calling upon the records of the fourth respondent in notification dated 10.10.2022 and consequential the impugned appointment order of the respondents 5 to 13 dated 03.01.2023 on the file of the fourth respondent and quash the same and consequential direct the fourth respondent to issue fresh notification for the said appointments.

Submissions :-

7.Per contra, the fourth respondent filed a counter affidavit and the learned Additional Advocate General Mr.Veerakathiravan appearing for the respondents 1 to 4 submitted that during the period from 01.10.2019 to 30.09.2022, a total number of 2748 Village Assistant posts held vacant. The



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Additional Chief Secretary/Commissioner of Revenue Administration vide his letter dated 28.09.2022 called upon all the District Collectors of Tamil Nadu to fill up the existing 2748 vacancies in the cadre of Village Assistants. In view of the large number of vacancies, the District Collectors were asked to take earnest steps immediately to fill up the said vacancies notifying the Taluk level Village Assistant vacancies with cyclic order of priority along with the number of candidates going to be appointed as per G.O.Ms.No.122 Personnel and Administrative Reforms Department, dated 02.11.2021.

8.As far as Ettayapuram Taluk, Thoothukudi District is concerned, there were 9 vacancies of Village Assistants and for the vacancies, 608 candidates applied through online in response to the notification dated 10.10.2022. The petitioner was also one of the candidates who applied for the said vacancies. As per the procedures, a written test was conducted for the candidates who applied on 04.12.2022. However, in the written examination, out of 608 candidates, only 479 candidates participated. Thereafter, a personal interview for all the candidates who participated in the written test was conducted from 02.01.2023 to 10.01.2023. The said interview was conducted as per the guidelines of the authorities of the State



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and the personal interview marks were also uploaded after the completion of the said interview. As per the guidelines, a tentative selection list of 9 candidates for 9 Village Assistant vacancies was released in the Government website.

9.As per 200 points roster system of appointment vertical, horizontal and priority category were to be duly followed for the appointment of said posts in Ettayapuram Taluk, Thoothukudi District. 200 points roster system to be followed was from cyclic number 23 of 200 points roster cyclic order because in the year 2015 for Village Assistant vacancy in Ettayapuram Taluk, as per the available record, Tmt.Selvakumari was appointed in the cyclic number 22 of 200 points roster cyclic order system. Therefore, the cyclic numbers from 23 to 31 of 200 points roster cyclic order system are listed as below :-

S.No.	Community	General/Women	Priority/Non Priority	Reservation
23	MBC& DNC	Women	Non Priority	PSTM
24	BC	General	Non Priority	
25	GT	General	Non Priority	Differently Abled (Blind & Low vision)
26	SC	Women	Non Priority	PSTM
27	GT	General	Non Priority	
28	MBC&DNC	General	Priority	
29	GT	Women	Non Priority	



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30	BC	Women	Non Priority	
31	GT	General	Non Priority	Ex Servicemen PSTM

10.The petitioner belong to destitute widow priority category and as per 200 points roster system of appointment released by the State and in the vertical, horizontal and priority of destitute widow category was not earmarked with any vacancy for this currency of period of appointment available in 9 Village Assistant vacancies in Ettayapuram Taluk, Thoothukudi District. Promptly all the 9 candidates for the appointment of Village Assistants in Ettayapuram Taluk, Thoothukudi District were selected based on purely merit and cyclic priority. However, the petitioner did not come within the zone of consideration at all since she had scored only 40.67 marks out of 100 marks in the overall score of written examination and personal interview. The details of the persons, who got appointed is extracted as follows:-

இன சுழற்சி எண்	வகுப்பு	பொது/ பெண்	முன்னுரிமை	இட ஒதுக்கீடு	நியமனம் செய்யப்பட்ட நபர்கள்
23	மிகவும் பிற்படுத்தப்பட்டோர் மற்றும் சீர்மரபினர்	பெண்	முன்னுரிமை அற்றவர்	தமிழ் வழியில் கல்வி பயின்றோர்	திருமதி. ருக்மணி
24	பிற்படுத்தப்பட்டோர் (முஸ்லீம்கள் தவிர)	பொது	முன்னுரிமை அற்றவர்		திரு.பிரவீன் குமார்



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25	பொது	பொது	முன்னுரிமை அற்றவர்	மாற்றுத்திறனாளி (கண் பார்வை அற்றோர், பார்வைத் திறன் குறைவுடையவர்)	திருநங்கை. ஸ்ருதி
26	பட்டியல் இனத்தவர்	பெண்	முன்னுரிமை அற்றவர்	தமிழ் வழியில் கல்வி பயின்றோர்	திருமதி.எம். பானுமதி
27	பொது	பொது	முன்னுரிமை அற்றவர்		திரு.ஜெயக் குமார்
28	மிகவும் பிற்படுத்தப்பட்டோர் மற்றும் சீரமரபினர்	பொது	முன்னுரிமை பெற்றவர் (முதல் தலைமுறை பட்டதாரி)		திரு.பேச்சி முருகன்
29	பொது	பெண்	முன்னுரிமை அற்றவர்		திருமதி.மாரிச் செல்வி
30		பெண்	முன்னுரிமை அற்றவர்		திருமதி.மு. சித்ரா
31	பொது	பொது	முன்னுரிமை அற்றவர்	முன்னாள் இரா ணுவத்தினர், தமிழ் வழியில் கல்வி பயின்றோர்.	திரு.மாரி முத்து

11.Though the petitioner claims the appointment by strength of G.O.Ms.No.24 Social Welfare and Women Empowerment [SW.5(1)] dated 11.06.2021, G.O.Ms.No.188 Personnel and Administrative Reforms (Personnel-P) Department dated 28.12.1976, giving priority to the destitute widows, in terms of the 200 points roster system which was followed for the appointment of Village Assistant in Ettayapuram Taluk, Thoothukudi District from cyclic number commenced from 23 to 31 of the 200 points



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roster cyclic order system. The category of destitute widow was not covered. That apart, G.O.Ms.No.24 Social Welfare and Women Empowerment [SW.5(1)] dated 11.06.2021 is only with respect to the prioritising the victims in all the Government schemes for those children and for those persons who had lost their spouse due to covid-19 and living with their children and the same is not entitled for employment opportunities.

12.In view of the aforesaid submissions, the learned Additional Advocate General pressed for dismissal of the writ petition.

13.The selected candidates who were impleaded as respondents 5 to 13 have filed their counter affidavit and the learned counsel, Mr.Porkodi Karnan, M/s.Polax Legal Solutions appearing for the respondents 5 to 13 categorically submitted that the District Collector, Thoothkudi in his circular dated 10.10.2022 had instructed the fourth respondent as well as the Tahsildars in the District to initiate the appointment of Village Assistants in the vacancies which had arisen in the previous three years, following the rules of 200 point roster, the horizontal, vertical reservations and priority basis. By following 200 point roster system, the appointment of Village



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Assistants started from cyclic No.23 and the last vacancy in Ettayapuram Taluk was filled in the year 2015 in the Cyclic No.22 of the 200 point roster system.

14.After receiving the applications from various candidate, the written examination was conducted on 04.12.2022. After conducting written examination, the written examination papers were scrutinized and marks were allotted by following G.O.Ms.No.574 dated 17.10.2020. On that basis, 25 marks were allotted to the candidates who belong to the native village in which vacancy arose and 20 marks were allotted to the candidate who does not belong to the village where vacancy existed. Other than the marks for residence, the marks were allotted based on the performance of each candidate in written examination and reading examination and the total marks was arrived based on written examination, the residence, educational qualification and ability.

15.As far as the writ petitioner is concerned, she has scored only 40.67 marks in the overall score of written examination and personal interview. Thus having not even come under the zone of consideration, the writ petitioner do not have any legal right in questioning the notification as



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well as the process of appointment. After the allotment of overall marks, the category of candidates were segregated based on the communal roster and the candidates was ranked in each category based on the total marks obtained by them and thereafter, the priority was finalized based on 200 point roster system. The appointment was done from the roster point of 23 to 31 and the same do not include any priority for destitute woman under which category the writ petitioner falls and the priority of destitute woman could not be granted. On that basis, the learned counsel for the respondents 5 to 13 pressed for dismissal of the writ petition.

16.Per contra the learned Senior counsel Mr.S.R.Rajagopal appearing for the petitioner vehemently submitted that the petitioner made four applications for the post of Village Assistant. He reiterated the specific violations committed by the appointing authorities in the selection of respondents 9, 12, 5 and 11. He categorically submitted that the description of the vacancy in the impugned notification dated 10.10.2022 itself is erroneous and hence, the entire selection process was vitiated by the said deficiency. He vehemently contended that though the criteria was based on educational qualification, reading and writing skills and nativity, the petitioner was purposely given with zero marks in English and one mark in



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Tamil and for writing skill, zero marks in English and three marks in Tamil.

Only as the result of which, she was awarded with very low marks of 40.67 marks. Though the 11th respondent Mariselvi is not from very same vicinity, she was awarded with full marks of 25 for nativity contrary to the rules of recruitment. Even the 9th respondent who was also not of the same vicinity, was awarded with full marks for nativity. The 4th respondent ought to have followed the rules governing the appointment to the post of Village Assistant in letter and spirit without any deviation. However, the 4th respondent had created her own procedure in making appointments by not following the Rules and Reservation and priority. The 4th respondent had given go by to the requirements which necessitate the interference of this Court. The 4th respondent ought to have given priority to the living spouse, who have lost their spouse in covid-19. Though the appointment was made as early as on 13.01.2023 till the petitioner made an application under RTI on 27.01.2023, the results were not uploaded by the 4th respondent. The selection list was not promptly published in the District online portal. The impugned orders of appointment are *per se* illegal and tainted with personal interest, which needs the interference of this Court. The fourth respondent has completely negated the order passed by this Court in W.P.(MD)No. 27367 of 2022 and from issuing an appointment order to the writ petitioner



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and called upon this Court to quash the notification and the entire selection process.

17.Heard Mr.S.R.Rajagopal, learned Senior Counsel for Mr.G.Thalaimutharasu, appearing for the petitioner, Mr.Veera Kathiravan, learned Additional Advocate General assisted by Mr.Thambidurai, learned Government Advocate appearing for the respondents 1 to 4, Mr.Porkodi Karnan, learned counsel for M/s.Polax Legal Solutions, appearing for the respondents 5 to 13 and perused the entire materials available on record.

Analysis:-

18.Having submitted to the entire selection process wholeheartedly after attending the written examination, the petitioner managed to score 40.67 marks which is far behind the zone of consideration. The notification inviting applications for 9 posts of Village Assistant in Ettayapuram Taluk, Thoothukudi District was notified by the fourth respondent on 10.10.2022. In response to the same, as many as 608 candidates applied though online mode. 479 candidates participated in the written examination conducted on 04.12.2022 and all the candidates who participated in the written test attended the personal interview conducted from 02.01.2023 to 10.01.2023.



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19. On perusal of the records it would be clear that 200 points roster system has been followed in the selection of 9 Village Assistants appointment from cyclic numbers 23 to 31 of 200 points roster cyclic order system, since the last appointment of one Tmt. Selvarani was made in the cyclic number 22 of 200 points roster cyclic order system. The petitioner was one among the candidates who attended the written examination and personal interview and turned up to 40.67 marks, which is certainly not enough to pass the muster. The final selection list was uploaded as early as in January 2023 and all the selected candidates have joined duty and are in service.

20. The Apex Court has dealt with a similar case in ***Tajvir Singh Sodhi and Ors. v. the State of Jammu and Kashmir and Ors*** reported in ***2023 Livelaw (SC) 253*** and has categorically held that '*the criteria for evaluation of a candidate's performance in an interview may be diverse and some of it may be subjective. However, having submitted to the interview process with no demur or protest, the same cannot be challenged subsequently simply because the candidate's personal evaluation of his performance was higher than the marks awarded by the panel and simple*



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because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair and that there was lacuna in the process.' and the relevant portion of which is reads as follows:-

“ i) *In Manish Kumar Shahi vs. State of Bihar*, (2010) 12 SCC 576, this Court authoritatively declared that having participated in a selection process without any protest, it would not be open to an unsuccessful candidate to challenge the selection criteria subsequently.

ii) *In Ramesh Chandra Shah vs. Anil Joshi*, (2013) 11 SCC 309, an advertisement was issued inviting applications for appointment for the post of physiotherapist. Candidates who failed to clear the written test presented a writ petition and prayed for quashing the advertisement and the process of selection. They pleaded that the advertisement and the test were ultra vires the provisions of the Uttar Pradesh Medical Health and Family Welfare Department Physiotherapist and Occupational Therapist Service Rules, 1998. After referring to a catena of judgments on the principle of waiver and estoppel, this Court did not entertain the challenge for the reason that the same would not be maintainable after participation in the selection process. The pertinent observations of this Court are as under:

“24. In view of the propositions laid down in the above noted judgments, it must be held that by having taken part in the process of selection with full knowledge that the recruitment was



being made under the General Rules, the respondents had waived their right to question the advertisement or the methodology adopted by the Board for making selection and the learned Single Judge and the Division Bench of the High Court committed grave error by entertaining the grievance made by the respondents."

iii) Similarly, in [Ashok Kumar vs. State of Bihar](#), (2017) 4 SCC 357, a process was initiated for promotion to Class-III posts from amongst Class-IV employees of a civil court. In the said case, the selection was to be made on the basis of a written test and interview, for which 85% and 15% marks were earmarked respectively as per norms. Out of 27 (twenty-seven) candidates who appeared in the written examination, 14 (fourteen) qualified. They were interviewed. The committee selected candidates on the basis of merit and prepared a list. The High Court declined to approve the Select List on the ground that the ratio of full marks for the written examination and the interview ought to have been 90:10 and 45 ought to be the qualifying marks in the written examination. A fresh process followed comprising of a written examination (full marks - 90 and qualifying marks - 45) and an interview (carrying 10 marks). On the basis of the performance of the candidates, results were declared and 6 (six) persons were appointed on Class-III posts. It was thereafter that the appellants along with 4 (four) other unsuccessful candidates filed a writ petition before the High Court challenging the order of the High Court on the administrative side declining to approve the initial Select List. The primary ground was that the appointment process



was vitiated, since under the relevant rules, the written test was required to carry 85 marks and the interview 15 marks. This Court dismissed the appeals on the grounds that the appellants were clearly put on notice when the fresh selection process took place that the written examination would carry 90 marks and the interview 10 marks. The Court was of the view that the appellants having participated in the selection process without objection and subsequently found to be not successful, a challenge to the process at their instance was precluded. The relevant observations are as under:

"13. The law on the subject has been crystalized in several decisions of this Court. *In Chandra Prakash Tiwari v. Shakuntala Shukla*, this Court laid down the principle that when a candidate appears at an examination without objection and is subsequently found to be not successful, a challenge to the process is precluded. The question of entertaining a petition challenging an examination would not arise where a candidate has appeared and participated. He or she cannot subsequently turn around and contend that the process was unfair or that there was a lacuna therein, merely because the result is not palatable. *In Union of India v. S. Vinodh Kumar* (2007) 8 SCC 100, this Court held that:

"18. It is also well settled that those candidates who had taken part in the selection process knowing fully well the procedure laid down therein were not entitled to question the same (See also *Munindra Kumar v. Rajiv Govil* (1991) 3 SCC 368



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and *Rashmi Mishra v. M.P. Public Service Commission* (2006) 12 SCC 724)".

13.1. It is therefore trite that candidates, having taken part in the selection process without any demur or protest, cannot challenge the same after having been declared unsuccessful. The candidates cannot approbate and reprobate at the same time. In other words, simply because the result of the selection process is not palatable to a candidate, he cannot allege that the process of interview was unfair or that there was some lacuna in the process. Therefore, we find that the writ petitioners in these cases, could not have questioned before a Court of law, the rationale behind recasting the selection criteria, as they willingly took part in the selection process even after the criteria had been so recast. Their candidature was not withdrawn in light of the amended criteria. A challenge was thrown against the same only after they had been declared unsuccessful in the selection process, at which stage, the challenge ought not to have been entertained in light of the principle of waiver and acquiescence"

21. Even in the instant case, the petitioner had registered her name in the employment exchange on the directions of the fourth respondent on 12.03.2022 following which in response to the notification dated 10.10.2022 of the fourth respondent inviting application for the post of Village Assistant in Ettayapuram Taluk, Thoothukudi, the petitioner



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submitted her online applications. She participated in the written examination conducted on 04.12.2022 and was also called for attending personal interview. In the meanwhile, she came to know that the selected candidates that is, the respondents 5 to 13 were issued with the appointment orders on 13.01.2023 by the fourth respondent. Since the details of the appointment by the fourth respondent was not uploaded in the official website of the State Government as directed by the Commissionerate of Revenue Administration and Disaster Management vide letter dated 28.09.2022. The petitioner had sent a detailed representation to the respondents 1 to 4 on 20.01.2023 and caused legal notice to the fourth respondent on 20.01.2023. That apart the petitioner also made an application under RTI Act on 21.01.2023 and 27.01.2023 to the fourth respondent. Following which, the impugned appointment orders issued to the respondents 5 to 13 were uploaded by the fourth respondent. Challenging the notification dated 10.10.2022 and the impugned appointment orders, the petitioner has filed this Writ Petition.

22.No doubt the petitioner had fully submitted her to the selection process without any agitation and only on 20.01.2023, she caused legal notice to the fourth respondent without waiting for the results to be



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declared. Following which, the details of selected candidates were uploaded by the fourth respondent which would reveal that the impugned appointment orders were issued by the fourth respondent to the respondents 5 to 13 on 13.01.2023 itself.

23.Since the petitioner had participated in the selection process without protest and has come forward to challenge the selection process only after scoring low marks in written examination and in personal interview, she is estopped from challenging the said selection process. As in the case discussed supra having participated in the selection process only after the completion of the selection process, the petitioner came to know that the selected candidates are not properly selected. Since the petitioner had participated in the entire selection process and has scored only 40.67 marks, she has filed this case only after the emergence of a situation that she could not even come within the zone of consideration for selection.

24.In the light of the judgment of the Hon'ble Apex Court, since the petitioner has submitted herself to written examination and personal interview without any protest, the result of the same cannot be challenged subsequently simply because she did not come within the zone of



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consideration. It is needless to state that the notification dated 10.10.2022 inviting applications for the post of Village Assistant for Ettayapuram Taluk was notified without incorporating the details of reservation of priority/non priority category. But the petitioner made up her mind to challenge the same only after the completion of the entire selection process. The respondents vehemently relied upon this point and submitted that the petitioner is estopped from challenging the selection process, after becoming unsuccessful. Denying the same, the learned Senior Counsel Sr.S.R.Raja Gopal relied upon the case of ***R.Prema Latha v. State of Tamil Nadu Rep. By the Secretary to Government Higher Education Department*** reported in ***2022 (0) Supreme (Mad) 1111***, wherein a similar situation has been dealt with and distinguished from the judgment of the Hon'ble Apex Court discussed supra and the relevant portion of which is extracted herein:-

“III. Locus Standi of the Petitioners:

75. The learned counsels for the selected candidates raised a ground that the petitioners have no locus standi to challenge the process of selection, since they have participated and became unsuccessful. It is contended that the petitioners, who have partaken in the selection process cannot later on challenge after became unsuccessful.

76. There are catena of judgments on this principle of estoppel. However, the underlying object of all the principles of estoppel is to prevent candidates from trying another shot on consideration, and to avoid an impasse, wherein every disgruntled candidates having failed the selection, challenges it in the hope of



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getting a second chance.

77. However, this Court is bound to differentiate from this principle insofar as the candidate by agreeing to participate in the selection process only to assess the prescribed procedure and not the illegality in it. In a situation, where a candidate alleges misconstruction of statutory rules and discriminatory consequences arising there from, the same cannot be condoned merely because a candidate has partaken in it. The Constitutional Scheme is sacrosanct and its violation in any manner is impermissible. In fact, a candidate may not have locus to assail the incurable illegality or derogation of the provisions of the Constitution, unless he / she participates in the selection process.

78. Locus in the present case is immaterial, since the petitioners have partaken in the process of selection. After completion of selection process, they came to know that the selected candidates are tainted. Illegalities, irregularities and corrupt practices were found in large, affecting the entire process of selection and thus, chosen to approach the High Court. Thus, the ground of locus standi is misconceived and not available to the selected candidates, who all are said to be largely tainted with reference to the large scale irregularities in awarding marks for teaching experience and not giving preference / priority for the candidates, who studied both U.G. and P.G. on the same discipline and not following the roster properly. Thus, the ground of locus standi is held against the selected candidates.”

25.The impugned notification dated 10.10.2022 inviting applications for the post of Village Assistant has been notified by flouting the rules of reservation without notifying the priority category, namely, PSTM, differently abled (blind and low vision), dependant of Ex-servicemen/dependant of serving personnel and the same has mentioned



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vacancies from roster 23 – 31 under the 200 point roster system commenced from the year 2009. After that from the year 2010-2015, the following appointments has been made by the fourth respondent as follows:-

- “1.L.Murugan joined the duty on 18.10.2010,
- 2.S.Karpagavalli joined the duty on 19.08.2010,
- 3.M.Sivakumar joined duty on 19.08.2010,
- 4.Shanmugaraj joined duty on 09.09.2010 (Compassionate Ground),
- 5.Kandhasamy appointed as compassionate ground,
- 6.Kangaraj joined duty on 09.09.2010 and
- 7.Saraswathi joined duty on 09.09.2010.
- 8.S.Selvakumari appointment order issued on 07.04.2015 under General
- 9.Kaliraj appointed as compassionate Ground”

26.Of nine persons appointed between the period 2010 – 2015, three persons were appointed on compassionate grounds. Therefore, the rule of reservation and the roaster excluding compassionate appointment ends in serial 6 of 200 point roster system. When the 200 point roster system commencing from the year 2009 is on the midway ending in serial 6, the competent authorities ought to have commenced the roster from 7 - 15 of 200 point roster system in the following order:-



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S.No.	Community	General/Women	Priority/Non Priority	Reservation
7	MBC& DNC	Women	Non Priority	Destitute Widow
8	BC	Women	Non Priority	Destitute Widow
9	GT	General	Non Priority	
10	BC	General	Non Priority	
11	GT	General	Non Priority	
12	SC	Women	Non Priority	Destitute Widow
13	MBC& DNC	General	Non Priority	
14	BC	General	Non Priority	
15	BCM	General	Priority	Members of the family who were killed or disabled in war (5)*

27.Flouting the same, the impugned notification mentioning vacancies from roster 23 onwards to roster 31 is not properly explained either in the counter affidavits or in the arguments putforth by the respondents. Comparison between roster 23 – 31 and roster 7 – 15 is bring to light a completely different category of priorities/non priority communalwise reservation, which ought to have been notified. However, for the reasons unexplained and known exclusively to the competent authorities, the implementation of 200 point roster system has been allowed to break in the midway. Had it been properly notified, the opportunity for three destitute widows under category MBC, DNC, BC, SC respectively



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along with the dependants of the family who were killed or disabled in war would have been benefited. Denial of opportunity has mandated in 200 point roster system to the deserved categories in terms of community priority/non priority reservation would certainly amount the impugned notification arbitrary and the same has been notified violating the mandates of Article 16 and 16(4) of Constitution. The extent of irregularities and illegalities committed in conducting a selection has to be scrutinised in a case to case manner and in the instant case, the irregularities and illegalities are so tactful with the whole process of selection and it has become impossible to arrive at a decision as to the decision of the appointing authorities for commencing the vacancy positions from roster number 23 – roster number 31 of 200 point roster system. The said exercise has been done without any basis and without proper explanation.

28.As far as the selection of the respondents 5 to 13 are concerned, the instruction/guidelines/Government orders etc were not scrupulously followed by the appointing authorities and the selection of candidates under PSTM category has been done without following the mandates of relevant G.Os. Though the selected candidates are already appointed and working for past few months, in view of the impugned selection process and



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notification, by which the respondents 5 to 13 were selected and appointed has been made flouting the rules of reservation and 200 point roster system, this Court is of the considered view that it is necessary to interfere with the impugned notification and the selection process.

29. The Hon'ble Apex Court in the case of ***Sachin Kumar and Others v. Delhi Subordinate Service Selection Board (DSSSB) and others*** reported in ***(2021) 4 Supreme Court Cases 631*** has categorically held that if the process of selection has lost its legitimacy, it is necessary to cancel the same in its entirety leaving no option. Though the selected candidates are selected on the basis of the roster commencing from 23 – 31 of 200 point roster system, the entire selection is vitiated for the sole reason that the roster ought to have commenced from roster 7 – roster 15. Hence, the selected candidates cannot be allowed to pass muster and the cancellation of entire process of selection has become necessary. Only because of the reason that the petitioner had participated in the selection process and brought to the notice to this Court the illegalities after completion of selection process, this Court cannot close its eyes and allow the irregularities and illegalities committed by the fourth respondent to sustain. So long as there is sufficient basis to contend that the irregularities in



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finalising the roster number has occurred, it is not necessary for this Court to indulge in a roving inquiry to rule out all possible explanations and alternative scenarios where such irregularities would be justified.

30. In view of the same, I am inclined to quash the impugned notification No.அ7/5420/2020 dated 10.10.2022 and the impugned appointment order of the respondent nos.5 to 13 in Na.Ka.No.அ7/5420/2020 dated 13.01.2023 on the file of the fourth respondent and consequently direct the fourth respondent to issue fresh notification by strictly adhering the rule of reservation more specifically vertical and horizontal reservation as well as the 200 point Reservation Roster System, which is to be followed as per Section 53 of Tamil Nadu Village Assistant Service Rules by following G.O.Ms.No.122, P & AR Department, dated 02.11.2021.



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31. Accordingly, the Writ Petition stands allowed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

17.11.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes
Mrn



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To

- 1.The Additional Chief Secretary-cum-
Commissioner of Revenue Administration,
Chepauk, Chennai – 600 005.
- 2.The District Collector,
Thoothukudi District,
Thoothukudi.
- 3.The Revenue Divisional Officer,
Kovilpatti,
Thoothukudi District.
- 4.The Tahsildar,
Ettayapuram Taluk,
Ettayapuram,
Thoothukudi District.



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L.VICTORIA GOWRI, J.

Mrn

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17.11.2023