



W.P(MD)No.6406 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 02.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P(MD)No.6406 of 2023
and
W.M.P.(MD)No.6061 of 2023

A.Saravanakumar

... Petitioner

Vs.

1.The District Collector,
Madurai District,
Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Inspector of Police,
Melur Police Station,
Madurai District.
(R3 is suo motu impleaded vide order dated
05.04.2023)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, to direct the respondents to appoint the petitioner as Village Assistant in Melur Taluk, Madurai District in pursuance of the notification bearing V.Ve.No.325/Se.Ma.Tho.Madurai/dated 10.10.2022 on the basis of the petitioner's representation dated 16.02.2023.



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For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.M.Senthil Ayyanar
Government Advocate

ORDER

Heard the learned counsel on either side.

2. The petitioner was working as data entry operator on temporary basis in Melur Taluk Office from 2018 to 2021. When the first respondent issued recruitment notification calling for applications from the eligible candidates for the post of village assistant in Melur Taluk, the petitioner was one of the applicants. The petitioner was successful in clearing the tests. However, he could not be appointed as village assistant for the reason that he could not obtain police clearance certificate. The petitioner figured as A2 in Crime No.379 of 2022 registered on the file of the Melur Police Station. One Alphapudheen / Deputy Tahsildar was the defacto complainant. The investigating officer filed final report for deleting the accused. The learned Magistrate has issued RCS notice to the defacto complainant and the matter is still pending at that stage. In the meanwhile, the superintendent of police has



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given a direction for further investigation. This direction issued by the superintendent of police, madurai rural appears to act as impediment for issuing clearance certificate in favour of the petitioner.

3. The learned counsel appearing for the petitioner relied on the decision reported in **2023 Livelaw (SC) 402 (Peethambaran Vs. State of Kerala)**. The Hon'ble Apex Court in the said decision had categorically held that the District Police Chief is not competent to order further investigation as that power rests only with the jurisdictional Court and not with an investigating agency.

4. Since according to the third respondent, the petitioner is not involved in the crime, the third respondent is directed to issue clearance certificate in favour of the petitioner forthwith. After receipt of the same, the second respondent is directed to appoint the petitioner as village assistant. The learned counsel for the defacto complainant wanted to intervene in the proceedings. So far he has not filed any impleading petition. In any event, the outcome of this writ petition will not have any bearing on the protest petition that may be filed by the defacto complainant.



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5. With this observation, the writ petition is allowed. No costs.

Consequently, connected miscellaneous petition is closed.

02.06.2023

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
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To

1.The District Collector,
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Madurai.

2.The Tahsildar,
Melur Taluk,
Madurai District.

3.The Inspector of Police,
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Madurai District.

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