



W.P.(MD)No.9541 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 15.06.2023

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.9541 of 2023

S.Parthiban

... Petitioner

Vs.

1.The Secretary,
Public Department,
The Government of Tamilnadu,
Secretariat, Chennai.

2.M.Veerappan
(R2 is impleaded vide order dated 15.06.2023
in W.M.P.(MD)No.11812 of 2023 in
W.P.(MD)No.9541 of 2023 by GRSJ)

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the respondent to consider the representation dated 05.12.2022 within the time stipulated by this Court.

For Petitioner : Mr.R.Raghaev

For Respondents : Mr.Veera Kathiravan,
Addl. Advocate General,
Assisted by Mr.K.Balasubramani,
Spl. Government Pleader for R1.
Mrs.K.Jaya Sudha for R2.



WEB COPY



W.P.(MD)No.9541 of 2023

ORDER

Heard the learned counsel for the writ petitioner, the learned Additional Advocate General assisted by the learned Special Government Pleader for the Government of Tamilnadu and the learned counsel for the impleaded respondent.

2.The prayer in the writ petition is for directing the Government of Tamil Nadu to consider the petitioner's representation dated 05.12.2022. The petitioner wants the authority to comply with the direction given by a learned Judge of this Court on 28.04.2022 in W.P.No.17643 of 2012. He wants a committee to be formed as directed by this Court for the purpose of adding the post of Deputy Registrar as equivalent to Deputy Collector in category 2 of Section 5 of Special Rules Relating to the State Services.

3.It is true that a learned Judge of this Court in W.P.No.17643 of 2012 gave the following direction:-

“24.Considering the totality of the circumstances, the following directions are issued to the State Government:-



W.P.(MD)No.9541 of 2023

(i) The Government shall consider forming of Tamil Nadu Administrative Service including all the Departments connected to the Revenue and General Administration, Implementation of State policies for development in General as has been done by the Kerala Government.

(ii) The Government shall consider taking steps to treat all the State Level Officers alike and provide equal opportunity to them by making appropriate recommendation to the Central Government to bring them into Administrative Service for effective Administration.

(iii) The State Government shall constitute a Committee for the purpose of identifying the posts, which can be brought under the definition of Deputy Collector as done in G.O.(4D) No.12, Public (Special-A) Department, dated 26.08.2005.

We hope that the process will be initiated by the State Government within a period of six months.”

4. Aggrieved by the same, some third parties filed writ appeals in W.A.Nos.1583, 1583, 1600 and 1972 of 2022. The Hon'ble Division Bench vide judgment dated 15.09.2022 declined to interfere with the order of the learned Single Judge. Paragraph No.7 of the said judgment reads as follows:-



WEB COPY



W.P.(MD)No.9541 of 2023

“7. On merits, having heard learned advocates for the respective parties and having considered the material on record, this Court finds that, what should be the composition of 'State Civil Service' is entirely within the domain of the State Government, in consultation with the Central Government when that occasion arises. This Court, under Article 226 of the Constitution of India would be loath to give any direction to the State about the composition or restructuring of any of its services. At the same time, equally true it is that, when learned Single Judge has, after recording the grievance of the writ petitioners and other attaining factors and material on record, recorded prima facie satisfaction as to why the issue needs to be looked at appropriately by the State, such an innocuous direction (as quoted above) can not be said to be an error, much less any error apparent on the face of record, which would call for any interference under Clause 15 of Letters Patent. This appeal therefore needs to be dismissed. Expressing any further view in this regard would only prejudice the case of either of the contesting group which need to be done, leaving it to the wisdom of the State.”

5. Aggrieved by the order of the Hon'ble Division Bench, the impleaded respondent had filed S.L.P. (Civil) Diary No.39672 of 2022. The Hon'ble Apex Court vide order dated 02.01.2023 had granted permission to file SLP. In the said SLP, the State of Tamil Nadu had filed



W.P.(MD)No.9541 of 2023

its counter. Paragraph Nos.38, 39 and 40 of the said counter read as follows:-

“38.In this regard, the Government of Tamil Nadu has conducted a meeting under the chairmanship of the Chief Secretary and concerned Secretaries of various departments on 15.11.2022 to have a detailed discussion on the above said issue.

39.It is submitted that after detailed consultation with the Secretaries of various departments, this State Government has decided that it is not necessary to consider forming the Tamil Nadu Administrative Service for the purpose of identifying the posts which can be brought under the definition of Deputy Collector.

40.It is also submitted that the Government had decided to file an cross SLP as petitioner and also made an appeal and filed the above affidavit in this regard against the directions of the Hon'ble Single Judge order dated 28.04.2022 in W.P.No.17643 of 2012 filed by Thiru.P.Anandharaj and others and orders of the Hon'ble Division Bench of Madras High Court dated 15.09.2022 in W.A.Nos.1583, 1584, 1600 and 1972 of 2022 dated 15.09.2022 filed by Tmt.Alagumeena, Thiru.T.Palanikumar, Tmt.T.Jeyasheela and Thiru.T.Sengottaiyan respectively regarding to constitute a committee to consider forming the Tamil Nadu Administrative Service for the purpose of identifying the posts which can be brought under the definition of Deputy Collector.”



W.P.(MD)No.9541 of 2023

WEB COPY

6.As rightly pointed out by the learned Additional Advocate General, this writ petition is not maintainable. When the Hon'ble Apex Court is effectively seized of the matter and the Government of Tamil Nadu is also proposing to file cross appeal, it will be improper for this Court to entertain the writ petition. For this reason, this writ petition is dismissed. No costs.

15.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ias

To:-

The Secretary,
Public Department,
The Government of Tamilnadu,
Secretariat, Chennai.



WEB COPY



W.P.(MD)No.9541 of 2023



WEB COPY



W.P.(MD)No.9541 of 2023

G.R.SWAMINATHAN,J.

ias

W.P.(MD)No.9541 of 2023

15.06.2023
(2/2)