



W.P.(MD).No.19580 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2023

CORAM

THE HONOURABLE MRS.JUSTICE L.VICTORIA GOWRI

W.P.(MD).No.19580 of 2022

A.Regina Nayagam

... Petitioner

Vs.

1.The Director,
Rural Development and Panchayat Raj,
Panagal Building,
Saidapet,
Chennai.

2.The District Collector,
Collectorate Campus,
Dindigul District,
Dindigul.

3.The Block Development Officer (Village Panchayat),
O/o. The Block Development Officer,
Nilakottai,
Dindigul District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus, directing the 2nd respondent to grant consent for the appointment made by the Selection Committee for the 3 posts of Office Assistant in the light of resolution passed by the petitioner vide Resolution No.1, dated 20.02.2021 and in the light of proposal forwarded by



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the 3rd respondent in his proceedings in Na.Ka.No.2007 / 2020 / A1, dated 22.02.2021 and in terms of guideline issued by the Secretary to Government, Rural Development Department in G.O.Ms.No.114, dated 06.05.2000 and in the light of clarification issued by the 1st respondent in proceedings in Na.Ka.No.53656/2019/F1, dated 19.04.2022 within the period they may be stipulated by this Court.

For Petitioner : Mr.M.U.Mohamed Aslam

For Respondents : Mr.R.Baskaran
Additional Advocate General
Assisted by Mr.P.Thambi Durai
Government Advocate

ORDER

The present writ petition has been filed seeking direction to the 2nd respondent to grant consent for the appointment made by the Selection Committee for the 3 posts of Office Assistant in the light of resolution passed by the petitioner vide Resolution No.1, dated 20.02.2021 and in the light of proposal forwarded by the 3rd respondent in his proceedings in Na.Ka.No. 2007 / 2020 / A1, dated 22.02.2021 and in terms of guideline issued by the Secretary to Government, Rural Development Department in G.O.Ms.No.114, dated 06.05.2000 and in the light of clarification issued by the 1st respondent in



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proceedings in Na.Ka.No.53656/2019/F1, dated 19.04.2022 within the period that may be stipulated by this Court.

2. The petitioner is the Chairman of Nilakottai Panchayat Union and was elected as Chairman on 11.01.2020. The 2nd respondent vide proceedings, dated 18.12.2020 published a notification for the appointment to the post of Office Assistants in Nilakottai Panchayat Union and the same was published in a daily newspaper, namely Dina Thanthi on 23.12.2020 inviting applications from the eligible candidates. Of the 3 posts earmarked for Nilakottai Panchayat Union, one post was allotted for SC (A) Women (Destitute Widow), one for MBC/DNC and one for BC/SC/ST. For the said 3 posts, total number of 1103 applications were received, out of which, after scrutinizing the applications, 973 candidates were called for interview and 707 candidates participated in the interview which was held on 20.02.2021 at about 2.00 p.m at the Nilakottai Panchayat Union Office on production of original certificates. The original certificate of all the candidates who successfully participated in the interview was duly verified by the Appointing / Selection Committee and following candidates were selected for the post of Office Assistants.



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S.No	Communal Rotation	Name of the Selected Candidates	Educational Qualification	Date of Birth	Age as on 01.07.2020
1.	BC/SC/ST (General)	A.Edwin Albert	B.A., B.Ed.,	06.05.1990	30 years 1 month 26 days
2.	MBC/DNC	T.Mahadevan	DME	05.06.1990	30 years 26 days
3.	SC (A) Women (Destitute Widow)	P.Parvathy	+2	08.10.1989	30 years 8 months 24 days

3. The said 3 candidates were selected by the Selection Committee, following which the same was resolved vide Resolution No.1, 20.02.2021 by approving the selection made by the Committee. Thereafter, the 3rd respondent vide proceedings, dated 20.02.2021 and 22.02.2021 forwarded the proposal to the 2nd respondent seeking consent for issuance of appointment order for the selected candidates. While the matter stood thus, elections were announced by the State Government and due to code of conduct, there was no further progress in the selection process. After the completion of elections, new Government assumed charge during the month of May 2021. However, no further process was undertaken by the 2nd respondent. While so, one of the selected candidate of SC (A) Women category, namely P.Parvathy preferred a detailed representation to the petitioner on 18.05.2021 requesting to appoint her as



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Office Assistant. On receipt of the same, the petitioner had sent reply to her on 25.05.2021 intimating that she was selected for the appointment to the post of Office Assistant and the proposal has already been forwarded to the District Collector i.e., 2nd respondent for concurrence. Further, it was intimated that the appointment order would be duly issued on obtaining concurrence from the 2nd respondent. However, since no consent was granted, on that basis, the petitioner was not able to issue appointment order to the said P.Parvathy. Hence, the said Parvathy was constrained to file W.P(MD)No.10258 of 2021 before this Court seeking to direct the 2nd respondent to grant consent for her appointment. This Court on 09.07.2021 by its order, allowed the said writ petition directing the 2nd respondent to consider the proposal sent by the petitioner and the representation of the said Parvathy, dated 26.05.2021 in accordance with law within a period of 3 weeks from the date of receipt of the said order. ON the receipt of the copy of the said order, once again the said Parvathy preferred another representation to the 2nd respondent requesting him to issue an order of consent for her appointment as Office Assistant. Having received the same, the 2nd respondent shockingly vide notification, dated 02.12.2021 cancelled the earlier notification, dated 18.12.2020 on administrative reasons made fresh notification, dated 02.12.2021. Assailing the



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same, the said Parvathy filed W.P(MD)No.22305 of 2021. Under such background, clarifications were sought for from the District Collectors from various districts to proceed with the pending selection process with respect to appointment of Jeep Driver, Record Clerk, Office Assistant and Night Watchman. Based on the request made by the District Collectors, the 1st respondent vide proceedings, dated 19.04.2022 issued a clarification to the District Collectors to grant consent, if the entire selection process was already over. In view of the said clarification, it is necessary that the 2nd respondent ought to have granted consent for the appointment made by the Selection Committee. Since the same has not been done, this writ petition came to be filed.

4. The learned Additional Advocate General appearing for the respondents submitted that it is not only for the Union of Nilakkottai, the selection process was undertaken but the same was done across the district of Dindigul. The selected candidates are 3 among the 7365 candidates for the whole district of Dindigul for 21 posts of Office Assistants. Subsequently, after notifying vacancies on 18.12.2020, interview was held only in 3 Panchayat



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Unions, namely Nilakottai, Gujilamparai and Natham and in all other remaining Panchayat Unions, selection process was not conducted.

5. The chairpersons of 11 Panchayat Unions, where the selection process was not conducted raised objection to the employment notification, dated 18.12.2020 as per Section 96 of the Tamil Nadu Panchayat Act, 1994 and pressed to withdraw the employment notification. That apart, even in the 3 blocks where interview were conducted including Nilakottai, where the 4 selected persons were candidates, the selection was not finalized as the model code of conduct was introduced. In addition to that, the list of candidates sponsored by the District Employment Exchange is valid only for 6 months. Due to complete lockdown and because of the notification of election, the said selection process was not completed within a period of 6 months. Hence, the said list has lapsed. Only because of these circumstances, the 2nd respondent was constrained to cancel the earlier notification, dated 18.12.2020. In view of the cancellation made by the 2nd respondent vide notification, dated 02.12.2021, fresh selection process has been commenced in all the other 13 Panchayat Unions of Dindigul District except Nilakottai Panchayat Union only because of the interim stay granted in this writ petition. Considering the fact that the list of candidates forwarded by the District Employment Exchange has already been



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lapsed and since it is necessary to call for fresh list of candidates, the relief sought for by the selected candidates is not maintainable and pressed for dismissal of the writ petition.

6. A perusal of the records would reveal that pursuant to the interview conducted by the selection committee consisting of the 3rd and 4th respondents and Vice Chairman of the Nilakottai Panchayat Union on 20.02.2021, the final list of selected candidates were shortlisted and the same was forwarded vide proposal, dated 20.02.2021 on the resolution passed by the Nilakottai Panchayat Union's ordinary meeting to the 2nd respondent for approval by the Block Development Officer of Nilakottai Panchayat Union. On receipt of the said proposal, on 21.02.2021, the 2nd respondent sought for additional information with respect to the selected candidates which was also promptly and strictly submitted by the Block Development Officer on 20.02.2021. G.O.Ms.No.114 Rural Development E5 Department, dated 06.05.2000 in clause 2 (ஆ) has mandated that the District Collector on receipt of the proposal from the concerned Block Development Officer, should either approve or reject the proposal of the final selection list and in case of approval, appointment order should be issued within 3 days from the date of the said approval. However, in



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this case, even after the proposal was forwarded by the Block Development Officer, Nilakottai on 20.02.2021 and after receiving the same on 21.02.2021, the 2nd respondent has sought for clarification, which was also duly complied by Block Development Officer, Nilakottai on 22.02.2021 and was received by the 2nd respondent on the same day. However, as mandated by G.O.Ms.No.114 Rural Development E5 Department, dated 06.05.2000, the said proposal of appointment of the selected candidates was neither rejected nor approved by the 2nd respondent, but was kept in abeyance endlessly and it is in violation of principles of natural justice. But after a period of almost 10 months, the entire selection process came to be cancelled by the impugned notification of the 2nd respondent, dated 02.12.2021.

7. Justification canvassed by the learned Additional Advocate General for the said cancellation is as follows:

(i) The expiry of the validity of the list of candidates sponsored through the employment exchange within a period of 6 months.

(ii) The outbreak of Corona pandemic, as a result of which, the selection process could not be completed. In the newly formed districts as per the directions of the Hon'ble Supreme Court, the mode of conduct was announced between 15.09.2021 to 18.10.2021, due to announcement of elections.



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(iii) Notification of election between the period and the announcement of lockdown till 28.10.2021.

8. However, the learned counsel for the petitioner drew my attention to the clarification note, dated 19.04.2022 circulated by the Director of the Department of Rural Development to the District Collector of all the districts, except Chennai with respect to the appointment of Record Clerk, Office Assistant, Night Watchman and Driver, in which it has been clarified by the Directorate that for all those selection process, which has already been completed, it is a mandate of the competent authority to immediately approve the same in terms of the relevant rules and issue with appointment order. That apart, it was also clarified that the validity of the list of candidates sponsored through Employment Exchange was further extended from 6 months to 1 year in view of pandemic. It is further clarified that wherever the selection process is in the preliminary stage for more than 1 year, the selection process may be commenced by issuance of fresh notification, in the clarification, dated 19.04.2022. However, even before the clarification came to be circulated, the impugned notification of cancellation of the selection process which commenced on 18.12.2020 by Nilakottai Panchayat Union came to be cancelled. No doubt, the Government of Tamil Nadu is rendering best of its



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governance for the cause of social justice and it is a Welfare State. In a State like Tamil Nadu, it is the bounden duty of the respondents to appreciate the plight of the candidates who have applied for basic service posts. Taking into consideration that the entire selection process has been over as early as on 20.02.2022 and the list of selected candidates were also shortlisted in the Union of Nilakottai and the proposal of appointment of the selected candidates was also duly forwarded to the District Collector by the BDO in terms of the selection made by the duly constituted selection committee. I have no hesitation to observe that it is only the mistake of the 2nd respondent, who had kept the said proposal in abeyance without considering the same. The 2nd respondent ought to have approved or rejected the same within a period of 15 days. But the said exercise has not been done. No doubt, the selection process was not commenced at all in 11 Panchayat Unions of Dindigul District. However, as far as 3 Panchayat Unions including Nilakottai is concerned, the selection process was completed. It would be unjust on the part of the 2nd respondent to cancel the entire selection process having selected and shortlisted few candidates, especially in the case of Nilakottai Union is concerned. However, the learned Additional Advocate General submitted that the selection process which has been cancelled is not only pertaining to the Union of Nilakottai, but also the



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entire District of Dindigul and if the impugned notification is interfered, that would affect the selection process which has already been commenced and completed except Nilakottai, wherein the selection process is kept in abeyance in view of the interim order passed by this Court in this case.

9. In view of the same, this Court is inclined to direct the 2nd respondent to grant consent for the appointment made by the Selection Committee for the 3 posts of Office Assistants in the light of the resolution passed by the petitioner vide Resolution No.2, dated 20.02.2021 and the light of the proposal forwarded by the 3rd respondent in his proceedings in Na.Ka.No.2007/2020/A1, dated 22.02.2021 and in terms of clarification issued by the 1st respondent, dated 19.04.2022 and approve the proposal for the appointment of the 3 posts of Office Assistants within a period of four (4) weeks from the date of receipt of a copy of this order.

10. Accordingly, this Writ Petition stands allowed. No costs.

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NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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L.VICTORIA GOWRI, J.

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