



W.A.(MD).Nos.217 to 225, 663, 1060 to 1076 and 1771 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 07.11.2023

CORAM

**THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM
AND
THE HON'BLE MR.JUSTICE V.LAKSHMINARAYANAN**

**W.A.(MD).Nos.217 to 225, 663, 1060 to 1076 and 1771 of 2023
and**

**C.M.P.(MD).Nos.2642, 2644, 2646, 2655, 2658, 2659, 2663, 2666, 2669,
5971, 8039, 8043, 8045, 8046, 8047, 8050, 8052, 8053, 8058, 8060, 8062,
8063, 8066, 8071, 8074, 8077, 8082 and 13503 of 2023**

W.A.(MD).No.217 of 2023

- 1.The State of Tamil Nadu,
Represented by its Principal Secretary to Government,
BC, MBC and Minorities Welfare Department,
Secretariat,
Chennai.
- 2.The Commissioner,
Most Backward Classes and Denotified Communities Welfare,
Ezhilagam,
Chennai - 600 005.
- 3.The Director,
Backward Classes Welfare Directorate,
Ezhilagam,
Chennai.
- 4.The District Collector,
Thoothukudi District,
Thoothukudi.



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5.The District Backward Classes and
Minorities Welfare Officer,
O/o.District Backward Classes
and Minorities Welfare,
Thoothukudi District.

.. Appellants No.1 to 5/
Respondents No.1 to 5

Vs.

P.Magesh Kumar

..Respondent/Petitioner

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the order passed in W.P.(MD).No.21725 of 2021 dated 01.07.2022 on the file of this Court by allowing the Writ Appeal

For Appellants : Mr.Veerakathiravan
Additional Advocate General
assisted by Mr.N.Satheesh Kumar
Additional Government Pleader
For Respondent : Mr.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates

COMMON JUDGMENT

(Judgment of the Court was delivered by S.M.SUBRAMANIAM,J.)

The Writ Appeals are directed against the common order dated 01.07.2022 passed in a batch of Writ Petitions. The respondents have instituted writ proceedings seeking direction to issue an order of



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appointment of Cook in hostels and schools maintained by the Department of Backward Classes, Most Backward Classes and Minorities Welfare.

2. It is not in dispute between the parties that pursuant to the recruitment notification issued on 03.09.2020, inviting applications for selection and appointment to the post of Cook in Backward Classes, Most Backward Classes and Minorities Welfare Department, the respondents had submitted their respective applications and participated in the process of selection. Interview was conducted from 04.01.2021 to 08.01.2021. All the respondents had participated in the interview successfully. Selection list was published on 24.02.2021 by the competent authority. Based on the selection list, the candidates in respect of nine districts were appointed. Those appointed candidates are now serving in the department.

3. In this backdrop, the authorities competent found that the appointed candidates were not performing their duties attached to the post of Cook, since they have no knowledge about cooking and thus, they formed an opinion that the selection itself was tainted. The department received many complaints from the students staying in the hostels stating



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that meals cooked by the newly appointed cooks were found improper and not in eatable condition. The authorities conducted inspections and enquiry with the students staying in the hostels. Consequently, they came to understand that most of the Cooks appointed lacked practical experience in cooking. Thus, an order was issued to check the practical experience in cooking for the selected candidates through the Institute of Hotel Management and Catering Technology, vide Lr.No.B4/2874/2020 dated 25.11.2021. The process of assessing the appointed candidates in respect of nine districts is yet to be completed. Meanwhile, the appellants have cancelled the selection with reference to the remaining 20 districts in proceedings dated 27.11.2021. The said order came to be challenged in the writ proceedings by the respondents.

4. The learned Single Judge while considering the issues formed an opinion that the selected candidates have no vested right to claim appointment, since because they had appeared in the process of selection. Equally, the State cannot refuse appointment in an arbitrary manner. While holding so, the learned Single Judge set aside the cancellation of selection made in proceedings dated 27.11.2021 by the Chairman, State Level



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Selection Committee. A direction was issued to the Chairman of the Selection Committee to redo the exercise and by assessing the candidates independently, after providing an opportunity to the selected candidates. Further, it was left open to the appellants to explore the possibility of providing adequate training to the selected candidates.

5. In paragraph 26 of the order impugned, the learned Single Judge relied on the Government Order issued in G.O.Ms.No.65, Personnel and Administrative Reforms (AR-I) Department, dated 09.03.2007, constituting an Administrative Reforms Committee under the chairmanship of Dr.Justice A.K.Rajan, retired Judge of High Court, to ensure corruption free and transparent administration. On the recommendations of the Committee, the Government had passed G.O.Ms.No.24, Personnel and Administrative Reforms (AR-I) Department, dated 17.02.2010 issuing several directions. One such direction is fixing accountability on every Government servant, at every stage and at every level. Despite the same, the Selection Committee has exhibited such a callous attitude. Thus, the learned Single Judge directed the Principal Secretary to Government, Backward Classes, Most Backward Classes and Minorities Welfare Department, State of Tamil Nadu,



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Secretariat, Chennai, to initiate appropriate action against the members of the Selection Committee.

6. This raised a concern for this Court, since the learned Single Judge on the one hand issued a direction to appoint the selected candidates and on the other hand, directed the Principal Secretary of the Department to initiate action against the Selection Committee members. Once the process of selection is tainted and the tainted candidates cannot be segregated, the option left open is to cancel the selection. If there is a possibility of segregating the tainted candidates in a process of selection, then selection of those candidates alone are to be cancelled. In the present case, the allegations at large raised and the department during inspection found that the appointed candidates in nine districts are not qualified and not in a position to perform their duties and responsibilities attached to the post of Cook in Government hostels. Therefore, the order of the learned Single Judge requires re-consideration and more so, in public appointments, suitability and eligibility being essential, the authorities competent/Selection Committee is empowered to assess the suitability and eligibility of the candidates before issuing an order of appointment.



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7. Assessment of suitability, eligibility and antecedents of the candidates are the prerogative of the Selection Committee and issuance of the order of appointment based on the selection is the responsibility of the appointing authority. Interference of the Court in the matter of selection is limited, since the merit assessment being a subjective satisfaction of the Committee, which has to be made in accordance with the procedures contemplated and in consonance with the Rules applicable to the post for which the selection is conducted.

8. Once the authorities competent found that the selected candidates are not in a position to perform their duties and responsibilities, they have every reason to further probe into the selection of 20 districts and thus, we do not find any infirmity in respect of the actions initiated by the appellants for the purpose of ascertaining the suitability and eligibility of the candidates before issuing an order of appointment.

9. In the present case, the process of selection is admittedly completed and candidates selected and appointed to nine districts are serving in the department. In respect of 20 districts, appointment orders are



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yet to be issued. In view of the ambiguity in the matter of selection ascertained by the competent authorities of the department, we are bound to give an opportunity to the authorities to verify the suitability and eligibility of the candidates while setting aside the common reasoned order passed by the department cancelling the selection.

10. Though the learned Single Judge formed an opinion that an opportunity is to be granted to the selected candidates, while setting aside the cancellation order, he directed the Principal Secretary to initiate action against the Selection Committee members. Therefore, the Writ Court itself found that there are some infirmities in respect of the selection and there is no clarity about the suitability and eligibility of the candidates, who were selected for appointment.

11. In view of the complex nature of facts and circumstances and considering the fact that no prejudice would be caused to the selected candidates and to strike a balance between the selected candidates and the apprehension of the department regarding the appointment of unqualified, unsuitable or ineligible candidates, we pass the following orders:



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(i) The common order passed in W.P.(MD).Nos.21246 of 2021 and batch etc., dated 01.07.2022 is set aside. The orders impugned in the Writ Petitions are also consequentially set aside.

(ii) The appellant department is directed to assess the eligibility, suitability and the qualifications etc., of the selected candidates and if the competent authorities found that those criteria are not lacking, then those selected candidates are to be appointed. If the authorities found that such criteria are lacking, then they are empowered to cancel the selection in respect of those candidates, who are found not suitable and ineligible for appointment.

(iii) In respect of the candidates appointed, it is already brought to our notice that the process of re-assessment has been completed through the Institute of Hotel Management and Catering Technology, Tharamani, Chennai. In respect of those candidates, the competent authorities are empowered to cancel the appointment, once the appointed candidate is found ineligible or not suitable for appointment to the post of Cook. Even such powers are conferred on the authorities, since those candidates are under probation and they are not the permanent members of the services.



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(iv) The selected candidates/writ petitioners are also to be sent for evaluation to the Institute of Hotel Management and Catering Technology, Tharamani, Chennai for the purpose of ascertaining their suitability and eligibility.

(v) The said exercise shall be completed as expeditiously as possible.

12. With the above directions, the Writ Appeals are disposed of. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

(S.M.S.,J.) (V.L.N.,J.)
07.11.2023

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