



WEB COPY



W.P.No.11462 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.09.2024

CORAM :

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Writ Petition No.11462 of 2023
& WMP Nos.11347 & 11350 of 2023

Gomathi

.... Petitioner

-Vs-

1.The District Collector
Thiruvannamalai
Thiruvannamalai District.

2.The Sub Collector
Cheyyar, Thiruvannamalai District.

3.The Tahsildar
Venbakkam, Thiruvannamalai District.

4.Tamilarasan

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for the records in Na.Ka.A2/2619/2020 on the file of the 3rd respondent dated 27.02.2023 and quash the same as illegal, incompetent and without jurisdiction and further direct the 1st respondent to appoint the petitioner as the Assistant to the VAO.

For Petitioner : Mr.Sunny Sheen
for Ms.V.Srimathi

For Respondents : Mr.G.Velu, Government Advocate
-for R1 to R3
R4 - No appearance



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ORDER

WEB COPY This writ petition has been filed challenging the appointment of the fourth respondent as Assistant to the VAO through the proceedings of the third respondent dated 27.02.2023 and for a further direction to the first respondent to appoint the petitioner as Assistant to the VAO.

2. The case of the petitioner is that the third respondent issued a notification dated 06.10.2022 to fill up vacancies for the post of Assistant to the VAO in 13 villages. The petitioner submitted her application insofar as Melputheri village is concerned under the category of 'differently abled person'. The petitioner was called for the review and she attended two rounds of interview. She also submitted all the relevant documents.

3. The grievance of the petitioner is that the fourth respondent was selected and appointed as 'Assistant to the VAO' even though he belongs to 'MBC' category and whereas the post was reserved for persons belonging to 'BC' category. It is under these circumstances, the present writ petition came to be filed before this Court.

4. The third respondent has filed a counter affidavit. The relevant portion in the counter affidavit is extracted hereunder:

" 5. As regards the arrangements in paragraph 2 to 5, it is submitted



that the notification inviting application for filling up 13 posts of village assistants in Vembakkam Taluk was notified as per communication in Na.Ka.No.A2/2619/2022 dated 10.10.2022 and it was published in the Tamil Dailies like 'Dhinathanthi' and 'Dinakaran' on 12.10.2022. It is submitted that the petitioner was also one of the candidate applied for the post of village assistant as Backward Class candidate and upon scrutiny of her application, her candidature was accepted and the petitioner was permitted to attend the written test, accepted and the petitioner was permitted to attend the written test etc., on 04.12.2022 and she also attended the subsequent personal interview, reading talent test etc., and the petitioner was awarded 58 marks on her performance in the written, reading tests etc., apart from her educational qualification marks for her nativity etc., in accordance with the norms prescribed by the Government in G.O.(Rf) No.574, Revenue and Disaster Management Department, (Service Wing 8(1) Section) dated 07.10.2020. It is pertinent to submit that out of the 145 candidates belonging to backward class, the petitioner was placed as 83rd candidate, since the petitioner scored only 58 marks as against the total marks of 100. It is also submitted as against the vacancy belonging to Backward class (non-priority) 4th respondent who belongs to Most Backward Class has been inadvertently selected and appointed by the respondent as per his order dated 27.02.2023 who was working as Tahsildar Vembakkam previously. It is humbly submitted that it is an inadvertent omission committed by this respondent's predecessor. It is further submitted that through the aforesaid appointment is an omission committed by the respondent's predecessor the writ petitioner cannot stake any claim for appointment of the post, since she was placed as 83rd candidate out of 145 candidates belonging to Backward Class who attended the interview and there were 82 backward class candidates who scored higher marks than the petitioner in the interview, talent test etc.,



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conducted by the respondents. Hence it is submitted that though the appointment of the 4th respondent as village assistant by over ruling the communal roster was an omission, the writ petitioner is not entitled for appointment as village assistant in the place of the 4th respondent, since the petitioner was placed in the 83rd rank in terms of marks obtained by the petitioner in the interview and there are 82 candidates who scored higher marks than the petitioner. Hence the contention to the contrary is not acceptable."

5. Heard Mr.Sunny Sheen learned counsel for the petitioner and Mr.G.Velu, learned Government Advocate for the respondents 1 to 3. The 4th respondent has been served with notice and the name of the 4th respondent has also been printed in the cause list. However, there is no appearance either in person or through counsel.

6. On carefully going through the notification issued by the third respondent, it is seen that insofar as the Melputheri village is concerned, it fell under the category of 'Backward Class (BC)'. The fourth respondent who is admittedly a person belonging to the Most Backward Class (MBC) has been appointed for the post of Assistant to the VAO. In the counter, the third respondent has taken a stand that the fourth respondent has been inadvertently selected and appointed.

7. The stand taken by the third respondent is quite curious and there is no question of any inadvertent appointment of a person belonging to a different community when the post has been specifically designated for a BC Candidate as per



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the communal rotation. This Court is able to see that there is no inadvertence and actually there is something more than meets the eye in this case. A person holding the post of Tahsildar must know the difference between a candidate belonging to MBC category and BC category and when the post is specifically designated for a BC candidate, there is no question of appointing a person belonging to MBC category in that post. The same will be in violation of the communal rotation that was made at the time of issuing the notification. Hence, it is pellucid that the appointment of the fourth respondent in the post of Assistant is illegal and the same requires the interference of this Court.

8. In the light of the above discussion, the proceedings of the third respondent dated 27.02.2023 is set aside and the appointment of the fourth respondent as Assistant to the VAO is held to be illegal by this Court. In view of the same, there shall be a direction to the third respondent to issue a fresh notification calling for applications to the post of Assistant at the Melputheri Village. It goes without saying that the communal rotation shall be properly followed. This process shall be completed by the second respondent within a period of eight weeks from the date of receipt of a copy of this order. In the light of this Court declaring that the appointment of the fourth respondent is illegal, the fourth respondent cannot hold the post henceforth and he shall be relieved from his duties forthwith.



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N.ANAND VENKATESH, J.

KST

9. With the above directions, this writ petition is allowed. No costs.
Consequently, connected miscellaneous petitions are closed.

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Index : Yes/No
NCS : Yes/No
KST

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