



WEB COPY



W.P.No. 5764 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.01.2024

CORAM

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

W.P.No. 5764 of 2017

and

W.M.P.Nos. 6156 of 2017 & 116 of 2021

T. Ganapathy

... Petitioner

Vs.

1.The Director of Public Health and Preventive Medicine,
DMS Campus, Teynampet,
Chennai – 600 006.

2.The Missions Director,
State Health Society,
National Rural Health Mission,
DMS Campus, Teynampet,
Chennai – 600 006.

... Respondents

Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorari, to call for the records relating to the impugned notice issued by the first respondent in R.No.100612/E2/S1/2016 dated 22.01.2017 and to quash the same.

For Petitioner : Ms. M. Kaviya,
for Mr. S. Nedunchezhiyan
For Respondents : Mr. E. Vijay Anand,
Additional Government Pleader



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ORDER

This Writ Petition has been filed against the notice issued by the first respondent in R.No.100612/E2/S1/2016 dated 22.01.2017.

2. Learned counsel for the petitioner would submit that pursuant to the establishment of 60 Urban Primary Health Centre in Municipalities by virtue of G.O.Ms.No.103, Health and Family Welfare (EAP-II), Department dated 15.04.2010, the petitioner was appointed as Laboratory Technician in Urban Primary Health Centre. The petitioner was appointed in Udumalaipet Municipality on consolidated basis and he had obtained Diploma in Medical Laboratory Technology. In the light of G.O.Ms.No.130 Health and Family Welfare (EAP-II-2) Department dated 12.04.2012, Urban Primary Health Centres were directed to brought under the control of the Director of Public Health and Preventive Medicine on “as is where is basis” and the service of the petitioner is also taken in “as is where in basis”.

2.2. Learned counsel for the petitioner further submit that though the appointment of the petitioner was purely on temporary basis, the petitioner has been promptly discharging his duties for all these years and all of a sudden, the impugned show cause notice was issued on the ground that the diploma certificate possessed by him was given by unrecognized institution.



3. Learned Additional Government Pleader appearing for the respondents

submit that the petitioner was appointed purely on temporary basis and in the light of the diploma certificate possessed by him which was obtained from the unrecognized institution. The learned Additional Government Pleader further submits that the petitioner has to respond to the show cause notice, without submitting explanation, he directly approached this Court by filing the writ petition, which is premature and therefore, sought to dismiss the writ petition.

4. Having considered the submissions of the respective counsels and upon careful perusal of the materials available on record, it appears that the notice impugned in this writ petition, is a show cause notice issued by the first respondent calling for the explanation of the petitioner. The petitioner ought to have submit his explanation to the show cause notice.

5. Admittedly, the notice dated 22.01.2017 impugned in this writ petition is a show cause notice calling for the explanation of the petitioner. In my considered view, the petitioner ought to have submit explanation to the show cause notice and if any adverse order is passed against him, he ought to have approached this Court but in the present case, without submitting explanation, the present writ petition is filed which is not acceptable.



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6. In the considered opinion of this Court, it is appropriate to dispose of the writ petition without going into the merits of the case with a certain direction to the petitioner and respondents, in the interest of justice.

7. Accordingly, this Writ Petition is disposed of with the following direction: -

(i) The petitioner shall submit an explanation to the show cause notice dated 22.01.2017 within a period of three weeks from the date of receipt of copy of this order to the first respondent.

(ii) Upon receipt of the explanation, the first respondent shall consider the explanation submitted by the petitioner and afford an opportunity of the personal hearing to him and thereafter, pass appropriate orders on merits and in accordance with law.

(iii) Till passing final order by the first respondent, the service of the petitioner as Laboratory Technician shall not be dispensed with.

8. Consequently, connected miscellaneous petitions are closed.

9. There shall be no order as to costs.

22.01.2024

Index :Yes/No

Neutral Citation :Yes/No

AT

<https://www.mhc.tn.gov.in/judis>



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To

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DMS Campus, Teynampet,
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BATTU DEVANAND, J.

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