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WA No. 411 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.02.2024

CORAM :

THE HONOURABLE MR.JUSTICE R.MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No.411 of 2024
and
CMP. No. 2752 of 2024

S. Manikandan @ Selvakumar

.. Appellant

Versus

1. The District Collector
(Panchayat Development)
Villupuram.
2. Block Development Officer,
Panchayat Union,
Vanoor @ Thiruchitrambalam,
Villupuram District

.. Respondents

Writ Appeal filed under Clause 15 of Letters Patent praying to set aside the order dated 11.07.2023 passed by the learned Judge in WP. No. 20782 of 2015.

For Appellant : Mr.A.Velmurugan

For Respondents : Mr. P. Ganesan
Government Advocate



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JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

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The appellant has preferred this intra-court appeal, aggrieved by the order dated 11.07.2023 passed by the learned Judge dismissing the Writ Petition No.20782 of 2015 filed by him.

2. As per the averments made in the aforesaid writ petition, the second respondent invited applications for appointment to the post of Watchman by effecting publication in newspapers and also received applications of the candidates sponsored by the concerned Employment Exchange. Pursuant to the same, the appellant submitted his application for the post of Watchman. It is stated that totally 13 candidates, including the appellant, have applied for the post apart from five applications received from the District Employment Exchange. On scrutiny of the applications, the second respondent rejected five applications for various reasons and called upon the 12 candidates, including the appellant, for interview. A selection committee was constituted for the purpose of selecting the candidates and the committee, after completing the entire selection process, zeroed in on the appellant as the suitable candidate. Accordingly, a recommendation was sent by the second



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respondent to the first respondent to pass appropriate orders for appointing the appellant. However, the first respondent, by an order dated 11.05.2015, rejected the recommendation of the second respondent and directed to re-do the entire selection process on the ground that one candidate by name Maheswari, who comes under General Turn Priority category was not called upon to attend the interview. Assailing the aforesaid order dated 11.05.2015, the appellant has filed the writ petition.

3. The learned Judge, on considering the rival submissions, refused to interfere with the order dated 11.05.2015 passed by the first respondent and rejected the contentions raised on behalf of the appellant/writ petitioner. The learned Judge concluded that merely because a candidate happened to be a woman, she cannot be ignored during the process of selection for appointment to the post of Night Watchman. Therefore, the learned Judge by the order impugned herein, dismissed the writ petition on the finding that there was a procedural irregularity in the selection of the appellant. Challenging the same, the present writ appeal came to be filed by the writ petitioner.

4. The learned counsel for the appellant submitted that the learned Judge did not consider the fact that the appellant, along with other eligible



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persons, have attended the interview. After conclusion of the same, the appellant was selected and recommended for being appointed to the post of Night Watchman. Even assuming that an eligible female candidate was not called upon to attend the interview, it will not vitiate the selection of the appellant. The fact that the female candidate by name Maheswari, who comes under the General Category (W) and did not participate in the selection process, will not outweigh the selection of the appellant in any manner. It is not the case of the respondents that the appellant did not possess the requisite qualification for being selected. It is also not the case of the respondents that the appellant did not compete among the eligible persons for appointment to the post. However, the first respondent failed to give due recognition to the selection made by the competent committee. In such circumstances, the learned Judge ought to have interfered with the order of the first respondent and allowed the writ petition, instead of dismissing the same. Therefore, the learned counsel for the appellant prayed for allowing this writ appeal by setting aside the orders impugned herein as well as in the writ petition.

5. Per contra, the learned Government Advocate appearing for the respondents submitted that the first respondent, upon perusal of the recommendation made by the second respondent, had noticed that the selection



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committee did not adhere to the norms prescribed. It was specifically pointed out that a female candidate, who comes under the General Turn category, was ignored from the purview of selection. Taking note of the said flaw in the selection process, the first respondent rightly refused to accord approval for the recommendation made by the second respondent. It is further submitted that the post is earmarked for a Priority candidate as per the communal rotation, in which a non-priority candidate cannot be appointed. The recommendation made by the second respondent on the basis of the report of the selection committee to appoint the appellant/writ petitioner, who does not come under the prescribed communal rotation i.e., General Turn, would vitiate the entire selection process. The learned Judge, considering the said aspect, has rightly dismissed the writ petition filed by the appellant and it does not call for any interference by this court.

6. We have heard the learned counsel for the appellant and the learned Government Advocate appearing for the respondents and also perused the materials placed on record.

7. It is no doubt true that the selection committee conducted the selection process and based on the same, the second respondent recommended



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the candidature of the appellant for appointment to the post of Night Watchman. However, such recommendation was not accepted by the first respondent on the ground that a woman candidate, who belongs to General Turn category, was not called upon to attend the interview. While so, it was pointed out that the appellant did not belong to General Turn category and hence, he is not entitled for being appointed to the post of Night Watchman as per the communal rotation. Such order of rejection was passed by the first respondent, after having found that there was a procedural irregularity in the selection of the appointment. When there is a flaw in the selection process, then, the first respondent cannot be expected to accord approval for the appointment of the appellant. Accordingly, the learned Judge dismissed the writ petition filed by the appellant. It is settled law that when the selection process is vitiated by *mala fides*, it can very well be subjected to judicial scrutiny. Therefore, we do not find any reason to interfere with the order of the learned Judge.

8. At this stage, the learned counsel appearing for the appellant prays for a specific direction to the respondents to adhere to the guidelines issued in GO (Ms) No. 114, Rural Development and Panchayat Raj (E5) Department dated 06.05.2000, G.O. Ms. No.50, Rural Development and



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Panchayat Raj Department dated 08.04.2010 and other relevant Rules, while making appointment for the post in question. It is needless to mention that the respondents shall adhere to all the relevant Government Orders, Rules and procedures before resorting to appoint a person to the post of Night Watchman without any deviation.

9. With the above observation, this writ appeal is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]

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Index : Yes / No
Internet : Yes / No

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