



W.A.(MD)Nos.294, 295, 305, 311, 314, 335, 342 to 364 & 366 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reserving the Judgment	Date of Pronouncing the Judgment
20.03.2024	26.03.2024

CORAM:

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN
and
THE HONOURABLE MR.JUSTICE C.KUMARAPPAN

W.A.(MD)Nos.294, 295, 305, 311, 314, 335, 342 to 364 & 366 of 2024
and

C.M.P.(MD)Nos.2843, 2844, 2917, 2930, 3120, 3147 to 3156, 3158, 3159,
3161 to 3163, 3165, 3166, 3168, 3170 to 3172, 3174, 3175 and 3177 of 2024

W.A.(MD)No.294 of 2024:-

Sathishkumar

... Appellant

VS.

- 1.The Commissioner of Milk Production and
Dairy Development Department,
Mathavaram Milk Colony,
Chennai – 600 051.
- 2.The Chairman,
Representing the board-cum-competent authority,
A.1301, Madurai District Co-operative Milk
Producers Union Ltd.,
Sathamangalam,
Madurai District.



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3.The General Manager,
A.1301, Madurai District Co-operative Milk
Producers Union Ltd.,
Sathamangalam,
Madurai District.

4.The Deputy Registrar (Dairying),
Dairy Development Department,
Aavin Complex,
Madurai.

... Respondents

PRAYER : Writ Appeal filed under Clause 15 of the Letters of Patent, against the order dated 01.02.2024, made in W.P.(MD)No.10419 of 2023.

For Appellant : Mr.K.S.Viswanathan
Senior Counsel
for Mrs.A.Banumathy

For R1 and R4 : Mr.J.K.Jayaselan
Government Advocate

For R3 : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by
Mr.Devasenar
Standing Counsel

COMMON JUDGMENT

DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

These batch of Writ Appeals are the sequitur of the writ petitions filed by various employees challenging the order of removal passed by the



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Commissioner of Milk Production and Dairy Development Department and the consequential orders passed by the General Manager, Madurai District Co-operative Milk Producers Union, Madurai.

2. The background of the case in brief is that, the Maudrai, Virudhunagar and Trichy District Co-operative Milk Producers Unions, issued a notification for recruitment of staff in various posts. Pursuant to the said notification, several candidates applied to the respective Unions and thereafter, on conducting written examination and interview, appointment orders were issued. On receiving complaints about the irregularity in the appointment, the Vigilance Cell of the Aavin Milk Producers Federation conducted an enquiry and found that the appointments made pursuant to the advertisement for filling up of various posts bristles with rampant irregularity and nepotism and therefore, proper enquiry is required to be conducted. Based on the said recommendation, an enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act [in short, "the Act"] was conducted. The appointees were called for to give their statements and thereafter, the Deputy Registrar [Dairying], Dairy Development Department, who has conducted the enquiry, has submitted his report finding fault with the



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process of appointment. As a consequence, an instruction was sent to the respective District Unions to take action. As a result, all those who were appointed pursuant to the notification issued in the year 2019, were terminated by the impugned order issued in the month of January, 2023. Challenging the order of removal, few of the affected appointees have approached this Court and few of them have approached the Principal Seat of this Court. Those who have approached the Principal Seat of this Court, had the advantage of an interim order. Whereas, the same advantage was not available for the petitioners, who have approached this Court. Later, the respondents brought to the notice of the learned Judge, who heard the Writ Petitions in the Principal Seat of this Court, that the connected matters are pending before this Court, where the real territorial jurisdiction lies. Meanwhile, the writ petitioners, those who have approached the Principal Seat of this Court, had also filed Writ Petitions for similar prayer before this Court and later, withdrew their Writ Petitions pending before the Principal Seat of this Court.

3. A batch of Writ Petitions filed by the aggrieved appointees in the Madurai, Trichy and Virudhunagar Districts Co-operative Milk Producers Unions,



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"(i) The order of the learned Single Judge, dated 29.03.2023 in W.P.(MD).Nos.512, 515, 505, 516, 506, 528, 529, 531, 511, 541, 538, 534, 525, 507, 540, 509, 504, 501, 503, 526, 510, 523, 539, 542, 519, 432, 517, 532, 527, 514, 520, 524, 513, 530, 533, 502, 518, 537, 521, 536 and 535 of 2023 are set aside inasmuch as it relates to the Trichy District Co-operative Milk Producers Union Limited;

(ii) The corresponding Writ Petitions filed by the appellants / selected candidates of Tiruchirapalli District Co-operative Milk Producers Union Limited stand partly allowed by quashing the orders, dated 28.12.2022 of the first respondent and 03.01.2023 of the second respondent and consequently, the appellants / writ petitioners are directed to be reinstated into service with continuity of service. However, considering the overall facts and circumstances of the case, they will not be entitled to any backwages;

(iv) Since in this case, deliberately, the truth regarding selection and OMR sheets are tried to be distorted by all concerned, we direct the present General Manager of the second respondent Union to forward a complaint to the District Crime Branch, Tiruchirapalli. Upon receipt of the complaint, a case shall be registered and investigation be



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carried on in respect of OMR investigation and filing of Final Report, it will be open for the respondents to take a call once again regarding the fate of selection and if the investigation reveals that there is a wholesale fraud or absolute illegality in the selection and appointment of the candidates, they will be at liberty to redo the exercise afresh;

(v) In respect of any other irregularity such as qualification or want of post or communal rotation etc., it would be open for the respondents to issue a show-cause notice to the concerned employee by giving an opportunity of hearing and proceed with the matter in accordance with law;

(vi) There shall be no order as to costs.

(viii) Consequently, connected miscellaneous petitions are closed."

4. Some of the aggrieved persons had approached the Hon'ble Supreme Court by way of filing Special Leave Petitions. In the said S.L.Ps., while condoning the delay in filing the petitions, the Hon'ble Supreme Court had considered the submissions made by the learned counsels, and given a protective order of not to take coercive action against the appointees in the Virudhunagar District Co-operative Milk Producers Union and the appointee Ms.C.Jayarani in the Madurai Union, on the strength of the impugned judgment of the Division



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Bench, dated 13.10.2023. The said S.L.Ps. are pending before the Hon'ble Supreme Court awaiting decision. While so, the batch of appointees, those who have first approached the Principal Seat of this Court, duplicated their Writ Petitions before this Court and later, withdrawn the first batch of writ petitions filed in the Principal Seat of this Court.

5. The Writ Petitions came up before the learned Judge few months later, but after the disposal of the first batch of Writ Appeals, arising out of the first batch of Writ Petitions filed directly before this Court. The learned Judge, who heard the second set of Writ Petitions, had the advantage of the judgment rendered by the co-ordinate bench and also the Division Bench passed in the intra-court appeals. After perusing the records and considering the contentions made by the respective learned counsels and the judgment of the Division Bench in the connected matters, has dismissed the Writ Petitions with the following observation:-

"13.The Hon'ble Division Bench was dealing with the recruitment process arising out of three notifications dated 19.06.2019. The present writ petitions also relate to the same notifications namely Advertisement Nos.1/2019 and 3/2019 dated 19.06.2019. Therefore, this Court is



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inclined to follow the judgment of the Hon'ble Division Bench. The finding of the Hon'ble Division Bench with regard to the recruitment process followed by Madurai Union would clearly indicate that a systemic fraud has been committed by inserting applications after due date without even the mandatory demand drafts. For the written examinations conducted, the OMR mark sheets and the results have disappeared. Therefore, it is clear that it is very difficult to segregate the tainted from the untainted participants as far as the recruitment process for the Madurai Union is concerned."

6. On the date of pronouncing this order *i.e.*, on 01.02.2024, the learned Judge, who had an advantage of perusing the interim order passed by the Hon'ble Supreme Court, which referred to above and as a postscript, the learned Judge made the following observation in his order:-

"At the time of pronouncing the order, the learned counsel appearing for the writ petitioners brought to the notice of the Court, the order of the Hon'ble Supreme Court in SLP(Civil).Nos.1400 to 1402 of 2024 dated 23.01.2024 wherein the Hon'ble Apex Court has directed not to take any coercive action as against one of the appointees in the Madurai Union. Considering the said fact, the order in the present writ petitions will be kept in abeyance till 29.02.2024 to enable the petitioners to approach the appropriate forum."



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7. The order of the learned Judge, who had passed the order in the Writ Petitions on 01.02.2024 had the advantage of the judgment passed in the similar matter by the Division Bench of this Court as well as the interim order passed by the Hon'ble Supreme Court in the S.L.Ps. filed challenging the Writ Appeals' judgment.

8. The respective learned counsels appearing on behalf of the appellants made very fundamental submission that the removal of the writ petitioners, who have appointed after following the due process is vitiated due to non-observation of the principles of natural justice. The reason attributed by the learned Judge following the Division Bench judgment will apply only, in case, there is fraud committed by the appointees. Whether the fraud committed by the appointees or not has to be enquired individually and before arriving at a conclusion, an opportunity to the appointees should have been afforded. The denial of opportunity vitiates the entire proceedings, leading to removal of service, which is in the nature of capital punishment. The respective learned counsels appearing for the appellants submitted that the impugned order of termination, which has



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now been confirmed by the learned Judge, refers the report of the Deputy Registrar, who conducted the enquiry under Section 81 of the Act. Three reasons been stated in the enquiry report to suspect the process of selection. Those reasons are,

(1) Application was not submitted through registered post or speed post. Most of the appointees claim to have submitted their applications directly, which is not permissible as per the notification.

(2) The applications do not contain the information about the demand draft, which is payable towards fee. This leads to an inference that without demand draft/requisite fee, their applications were entertained.

(3) There is no proof for most of the appointees that they participated in the written examination. OMR Sheets for examination are missing. Therefore, it leads to an inference that most of the appointees have manipulated the selection process by getting their applications invited even without requisite fee and without participating in the examination/selection process, they have been appointed fraudulently.



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9. According to the learned counsels for the appellants, there is no basis to make such a wild allegation against the appointees when records prove otherwise. Since, only a portion of the document was placed before the learned Judge as well as the Division Bench, which heard the other batch of Writ Petitions, adverse orders been passed against the appointees. The writ petitioners, the aggrieved appointees are now able to collect material evidence to establish that they have submitted their applications well within the time prescribed either by post or in person, which is also a permissible mode for submitting the application as per the instruction found in the Annexure to the application. In some of the applications, the detail about the demand draft not mentioned, because that was drawn by their representatives before submitting the applications and therefore, it was not mentioned by inadvertence. However, they have proof to show that they have enclosed demand draft along with the application.

10. Regarding the third point that non-participation in the written examination in view of the disappearance of the OMR Sheets, the learned counsels contended that they have evidence to show that the appellants were called for examination and participated in the examination. If OMR Sheets are



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found missing, the appointees cannot be attributed with fraud. The respondents ought to have collected material from the Nodal Agency, *i.e.*, Bharathidasan University, which has conducted the examination. They should have cross verified the details from the centre, which has conducted the examination. Furthermore, the entire examination process was videographed and the copies of the videograph is very much available with the respondents as well as the Nodal Agency, which has conducted the examination. Therefore, even assuming that there was some fraud or malpractice in selecting the candidates for the posts notified, not all the appointees can be removed without verifying the records. *En masse* removal of appointees substantiate that the selection process bristles with Nepotism and fraud, which is contrary to natural justice principle and fair play.

11. Mr.Isaac Mohanlal, learned Senior Counsel submitted the details in a tabular column stating that how the appellants have submitted their application, what is the demand draft number and the date and place, where they participated in the examination to countenance the allegations made against the appointees branding them as fraudsters. A scanned reproduction of the details submitted by the learned Senior Counsel reads as under:-

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1	2	3	4	5	6	7	8	9	10	11	12	13	14	
S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	WA. (MD)No	Section 81 enquiry remarks
1	A.Suresh	BBA	In hand	yes	680377 dt. 11/7/2019 SBI Bank (Madhan, friend)	19	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	12.01.2021	SFA	12849 OF 2023	342 OF 2024	By his 19.01.2022 statement he accepted that he did not mentioned about the DD details on his application further there was no any endorsement of postal seal on the postal cover of his application. He admitted the application was handed over to the Aavin through his relative by in person was contra to the 19.06.2019 Aavin Publication, the mode of submitting the application as well as the non-mentioning about the DD details in the application subject to reject in the preliminary stage. Hence the appointment was not accepted.
2	S.Vinoth Kumar	B.SC Maths	through post	yes	17455 dt 26.06.2019 SBI Bank (Ashok, brother)	1104	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	10533 of 2023	343 of 2024	On his 30.05.2022 dated statement, he applied for the post of SFA and also purchased DD for the sum of Rs. 250/- enclosed the same application and sent to the Aavin through courier. And now the DD challan is not available with him. For perusal of the statement of S.Vinoth Kumar the original application was not handed over for enquiry. Hence his appointment concluded doubtful and it's not acceptable.
3	M.Naveen	MBA & D.Coop	through registered post	yes	160567 dt 01.07.2019 SBI Bank	4041	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	28.12.2020 at Aavin Campus, Madurai	28.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	10420 of 2023	344 of 2024	By his 26.05.2022 statement he submitted as per the Aavin Publication send the DD for Rs.250/- along with the filled application through courier to the Aavin. On perusal there was no any cover of courier was maintained along with his application. As per the Aavin publication the application should be send through registered, speed post to the Aavin. But the same was not followed subject to reject his application in preliminary stage. Hence his appointment was not accepted.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	Date of certificate verification & issue	Date of interview	Date of appointment	Post	W.P. (MD)No	WA. (MD)No	Section 81. enquiry report
4	B.Mohan	BE.Mechanical	in hand	yes	424069 dt. 02.07.2019 Indian Bank(praveen , friend)	116	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	11.01.2021	SFA	11848 of 2023	345 of 2024	By his 19.01.2022 statement he accepted that he did not mentioned about the DD details on his application for the post of SFA, and the application to the Aavin by in person. And also on his statement due to the delay now he is not able to remember about the bank details of DD enclosed. Further, on perusal it shows that in the postal cover there was no any postal seal but the un-cleared (dated round seal of union was affixed seems doubt upon it. The mode of sending application was contra to the 19.06.2019 Aavin Publication and also non-mentioning about the DD details in his application itself subject to reject his application in the preliminary stage. Hence the appointment was not accepted.
5	L.Yasmine	BBE	post	yes	through employment	599	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	05.02.2021	SFA	13845 of 2023	346 of 2024	By her 19.05.2022 statement it was confirmed that she was selected through Employment Exchange vide letter dated 16.08.2019 under the category of SBC-M-W-NP, the general procedure for the appointment should be within 6 months from the date of receipt of the letter from the employment exchange, but her appointment was on 06.01.2021 beyond the prescribed time limit hence it was not accepted.
6	P.Vijaykumar	M.COM, CA	Post	yes	474680381 dt. 12.07.2019 SBI BANK (Vellaichamy uncle)	1236	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	29.12.2023	SFA	13849 of 2023	347 of 2024	By his 20.05.2022 statement at the time of applying the application he was not aware of the DD amount, also the application was send to the union by ordinary post. For perusal the original application was not produced for enquiry creates the doubt upon it, hence his appointment was not accepted.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Encl. sent	DD Details	Details of Hall Ticket	Written exam with date	Date of certificate verification & venue	Date of interview	Date of appointment	Post	W.P. (MD) No	W.A. (MD) No	Section 81 enquiry finding
7	M.Janani Priya	BA.BED	by hand	yes	380879 dt. 29.06.2019 Indian Bank (Perumal brother)	498	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	11680 of 2023	348 of 2024	On her 15.06.2022 dated statement downloaded the application through online, and she accepted that she didn't fill up the application by herself and also the DD details. Further she said that the filled up application was handed over to the Aavin through her brother, and now the DD challan also not available with her. On perusal there was no postal seal on the postal cover, further hidden dated round seal of the union was affixed, create doubt upon it. Hence, non mentioning about the DD details in the application and the mode of sending application to the Aavin which was contra to the Aavin publication. Hence the application objects to be rejected preliminarily. So the appointment was not acceptable.
8	Mahalakshmi		through employment exchange		exempted as she belongs to ST Community		22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin Campus, Madurai	30.12.2020 at Aavin Campus, Madurai	12.01.2021	SFA	12560 of 2023	349 of 2024	By her 19.05.2022 statement it was confirmed that she was selected through Employment Exchange's letter dated 16.08.2019 under the category of ST-GT-Priority, general procedure was that the appointment should be within 6 months from the date of receipt of the letter from the employment exchange, but her appointment was on 06.01.2021 beyond the prescribed time limit hence the appointment was not accepted.
9	Subulakshmi	B.SC., D.TED	Post	yes	424950 dt. 28.06.2019 Indian Bank (Karthi, brother)	1494	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	11.01.2021	SFA	12861 of 2023	350 of 2024	By her 19.01.2022 statement she accepted that she did not mentioned about the DD details on her application for the post of SFA, and she directed her brother to send the application to the Aavin, hence she was unaware about the details of sending application through post. But on perusal it shows that in the postal cover there was no any postal seal but the unexpired dated round seal of union was affixed seems doubt upon it. The mode of sending application was contra to the 19.06.2019 Aavin Publication and also non-mentioning about the DD details in her application itself subject to reject her application in the preliminary stage. Hence the appointment was not accepted.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	W.A. (MD)No	Section B1 enquiry finding
10	M.Paulthambi	M.Phil., D.Coop	Post	yes	720543 dt. 06.07.2019 Indian Bank	4081	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	28.12.2020 at Aavin Campus, Madurai	28.12.2020 at Aavin Campus, Madurai	11.01.2021	Executive (office)	10422 of 2023	351 of 2024	By his 26.05.2022 statement he submitted that he downloaded application through online as per the Aavin Publication and 06.07.2019 purchased DD for Rs.100/- from Indian Bank and filled about the details and send the application by person to the union. The said act was against the procedure of the Aavin Publication regarding the receipt of the candidate's application. Hence, it proves the application received by illegal manner. Hence his appointment was not accepted.
11	M.Divya Bharathi	M.Com., (coop)	post	yes	963058716 dt. 05.07.2019 IOB Bank (uma maheshwari cousin sister	4067	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	28.12.2020 at Aavin Campus, Madurai	28.12.2020 at Aavin Campus, Madurai	11.01.2021	Executive (office)	10308 of 2023	352 of 2024	By her 26.05.2022 statement she downloaded the Aavin Publication through online and purchased DD for Rs.250/- from the Bank of Indian and mentioned the same on his application and send to the union through post. On perusal of her original application the postal cover was not maintained by union, but union addressed empty postal cover was enclosed along with the application. By that the mode of submitting the application was against the Aavin publication and the application was enclosed illegally. Hence her appointment was not accepted.
12	Knshnaveni	BA., D.Ted.,	post	yes	181045 dt 10/07/19 Indian Bank, Anna Nagar, Madurai. Jaisankar (father's friend)	1438	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	11851 of 2023	353 of 2024	On her 30.05.2022 dated statement, she downloaded the application, she didn't mention about the DD details, and now she forgotten on which date in which bank it was purchased. Further, the filled up application sent to the Aavin by post through her uncle. On perusal there was no postal stamp in the postal cover, also 03.07.2019 dated round seal of union alone are fixed. Affix seems doubt on it. The non mentioning of the DD details in the application and the mode of sending the application also on draft to be Aavin publications, hence the application should be rejected preliminarily and her appointment was not acceptable.



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13	Viswa Bharathi	12th	in hand	yes	exempted	415	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	08.01.2021	SFA	12848 OF 2023	354 OF 2024	By his 19.01.2022 statement he accepted that he did not mentioned about the DD details on his application for the post of SFA, and he send the application through her brother, hence he did not aware of the mode of send the application. But the absence of the postal cover seems doubts upon it. The mode of sending application was contra to the 19.06.2019 Aavin Publication and also non-mentioning about the DD details in his application itself subject to reject his application in the preliminary stage. Hence the appointment was not accepted.
14	Bhavani	B.SC(BIO)	Registered post	yes	608420 dt. 02.07.2019 MDCC Bak	2368	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	11.01.2021	SFA	11495 of 2023	355 of 2024	On her 19.05.2022 date statement, she applied for the post of SFA under ST-General- Non priority category, and as per the Aavin publication filled up the application including the mentioning the DD details and sent it to Aavin through register post.
15	R.Solairaj	12th	in person		181038 dt 10.07.19 K.Anandhaku mar	115	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai		SFA	11528 of 2023	356 of 2024	On his 30.05.2022 dated statement, he didn't mention about the DD details on his application, further the DD was purchased by his brother, so he didn't know in which bank it was purchased. Further his brother sent application to the Aavin, hence he didn't know the said details also. On perusal there was no postal cover was mentioned along with application, it seems to be doubtful. Hence, non mentioning about the DD details in the application and the mode of sending application to the Aavin which was contra to the Aavin publication. Hence the application objects to be rejected preliminarily. So the appointment was not acceptable.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	WA. (MD)No	Section 81 enquiry finding
16	Satheeshkanth Jadeja	BE Mechanical	in hand	yes	17548 dt 15.07.2019 IDBI Bank (Madavan friend)	625	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	10309 of 2023	357 of 2024	By his 19.01.2022 statement he accepted that he did not mentioned about the DD details on his application for the post of SFA, also there was no any endorsement of postal seal on the postal cover of his application. Further on his statement he admitted application was handed over to the Aavin through his father by in person, further on the postal cover without any postal seal, 05.07.2019 round seal of union alone was affixed seems objectable, also the mode of submitting the application was contra to the 19.06.2019 Aavin Publication, and also the non-mentioning about the DD details in the application subject to reject in the preliminary stage. Hence the appointment was not accepted.
17	Irban Yasick	MA., B.ED	Post	yes	469182259 dt 12.07.2019S BI M.K. University, Ranjith (friend)	43	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	12862 of 2023	358 of 2024	By his 20.05.2022 statement at the time of application he accepted that he did not mentioned about the DD details and also the application was filled up by his father and he put his signature alone in the application, further, since the application was send by his father to the Aavin he did not no the mode of send in the application. On perusal there was no any postal cover was maintain by the union seems objectable further the mode of applying was against the 19.06.2019 publication of Aavin and also the non-mentioning about the DD details in the application subject to rejected in the preliminary stage. Hence the appointment was not accepted.
18	D Ponnuthal	B SC(Maths)	Post	yes	680378 dt 12.07.2019 SBI Bank (selvi sister)	1301	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	08.01.2021	SFA	11850 of 2023	359 of 2024	On her 30.05.2022 dated statement, she downloaded the application and filled up the same, further the details of the DD filled up her husband, and sent to through post, now the postal receipt or DD challan was not available with her, on perusal there was no postal seal on the postal cover, further hidden dated round seal of the union was affixed, create doubt upon it. Hence, non mentioning about the DD details in the application and the mode of sending application to the Aavin which was contra to the Aavin publication. Hence the application objects to be rejected preliminarily. So the appointment was not acceptable.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	WA. (MD)No	Section 81 enquiry finding
19	R.Suresh Kumar	M.SC., B.ED., D.Ted.,	Registered post	yes	243431 dt 29.06.2019 SBI Bank	412	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	05.02.2021	SFA	11859 of 2023	360 of 2024	On his 19.05.2022 dated statement, he applied for the post of SFA under GT-General priority and land acquisition affected person's category. As per the Aavin publication downloaded the application through online fill it up with DD details sent the application through register post along with DD.
20	M.SundaraGOP	M.SC., B.ED.,	POST	YES	17518 dt 08.07.2019 IDBI Bank (raja brother	44	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	11644 of 2023	361 of 2024	By his 20.05.2022 statement at the time of application he accepted that he did not mentioned about the DD details, and he submitted the application by in person before the Aavin. On perusal there was no any postal seal in the postal cover and 04.07.2019 round seal of the union alone was affixed seems objectable, hence the mode of submitting the application was against the 19.06.2019 publication of Aavin and also the non-mentioning about the DD details in the application subject to reject in the preliminary stage. Hence the appointment was not accepted.
21	M.Kanagaraj		Registered post	yes	608258 dt 03.07.2019 SBI Bank	1624	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	29.12.2020 at Aavin Campus, Madurai	29.12.2020 at Aavin Campus, Madurai	08.01.2021	SFA	11647 of 2023	362 of 2024	On his 30.05.2022 dated statement, he applied for the post of SFA under ST-General-Non priority category. As per the Aavin publication downloaded the application through online fill it up with DD details of Rs.100/- of State Bank of India, sent application through register post to the Aavin along with DD.



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S.No	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Hall Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	WA. (MD)No	Section 81 enquiry finding
22	D.Linson	M.SC.,PGD BI	Registered post	YES	575589 dt 02.07.2019 Andhra Bank	1270	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	11.01.2021	SFA	11865 of 2023	363 of 2024	On his 20.05.2022 dated statement, he applied to the post of SFA under BC OTM -G-IP category, he downloaded the application through online as per the publication of Aavin and filled same, further DD for Rs. 250/- was purchased and enclosed the same with application and sent through via register post.
23	K.Veera Kumar	Diplomo in civil engineer	post	yes	680384 dt 12.07.2019 SBI Bank (vellaichamy, brother)	835	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	11.01.2021	SFA	11847 of 2023	364 of 2024	By his 20.05.2022 statement at the time of application he accepted that he did not mentioned about the DD details and further did not remember of the mode of sending application to the Aavin, on perusal there was no any postal cover seems doubt upon the said facts. Hence the mode of submitting the application was against the 19.06.2019 publication of Aavin and also the non-mentioning about the DD details in the application subject to reject it in the preliminary stage. Hence the appointment was not accepted.
24	V.Karthik	12th	post	yes	680252 dt 08.07.2019 SBI Bank (muthukarupaiya, uncle)	1359	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai		SFA	11621 of 2023	366 of 2024	By his 19.01.2022 statement he accepted that he did not mentioned about the DD details on his application for the post of SFA, also there was no any endorsement of postal seal on the postal cover of his application. Further on his statement he admitted the application was handed over to the Aavin through his brother by in person was contra to the 19.06.2019 Aavin Publication, the mode of submitting the application as well as the non-mentioning about the DD details in the application subject to reject in the preliminary stage. Hence the appointment was not accepted.



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S.NO	Name	Educational qualification	Date of Application & Mode	DD Enclosed	DD Details	Details of Mail Ticket	Written exam with date	date of certificate verification & venue	date of interview	date of appointment	Post	W.P. (MD)No	WA, (MD)No	Section 81 enquiry finding
25	Vishnu	BE Computer science	post	yes	680371 dt 11.07.2019 SBI Bank Muneeswaran	788	22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	30.12.2020 at Aavin campus, madurai	30.12.2020 at Aavin campus, madurai	08.01.2021	SFA	2023	of 2024	on his 25.05.2022 dated statement, he accepted that at the time of application for the post of SFA he did not mention about DD details further the application was sent by his father and he admitted the mode of application. On perusal of the maintained application the postal cover was small and 06.07.2019 dated round seal of the union alone affixed which is said to have created suspicion. Hence the mode of submitting the application was against the 19.06.2019 publication of Aavin and also the non-mentioning about the DD details in the application subject to reject it in the preliminary stage. Hence the appointment was not accepted.
26	Rajapandian	BE Computer science	Registered post	yes	635197 dt 08.07.2019 SBI Bank		22.11.2020. MADURAI KAMARAJ UNIVERSITY COLLEGE	28.12.2020 at Aavin campus, madurai	28.12.2020 at Aavin campus, madurai	06.01.2021	manager-engineering	10188 of 2023	of 2024	On his 25.05.2022 dated statement, he applied for the post of Manager (Engineer) under MDC-DNC-P and also under land donated category. As per notification application online filled up along with DD details of Rs.250/- of State Bank of India and sent through speed post to the Aavin. On perusal there were no details regarding the application sent through the post, but through self addressed postal cover alone was enclosed, hence the mode of application contra to the Aavin publication subjects to reject preliminarily. Further, the priority under land donor category will applicable to the person whose land acquisition the voluntarily land donation was not applicable under the land donor category. For the above said reason the appointment was not acceptable.



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12. Mr.T.Cibi Chakraborty, learned counsel submitted that the notification is dated 19.06.2019 and the Employment Exchange has recommended his client's name, vide letter dated 25.06.2019. Accordingly, he participated in the examination on 28.11.2020 and got selected. The appointment order ought not to have been set at naught after two years without giving an opportunity. However, his termination is attempted to be justified by the Department stating that his appointment order is beyond the six months period from the date of recommendation by the Employment Exchange. In fact, it is hardly 10 days after six months and the Division Bench in the earlier Writ Appeals, had taken note of the fact that this cannot be a ground to reject the application, since there is an amendment to the rule that the recommendation by the Employment Exchange will lie for 12 months. Except this one ground, there is nothing to suspect his appointment or to term as fraudster. The alleged violation of the recruitment rules is a plea, which is now taken, has no legs to stand, since the Commissioner has granted post ratification for the entire selection process.



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WEB COPY 13. Ms.J.Anandhavalli, learned counsel would submit that in the case of her client, notification for direct recruitment itself was made only after getting sanction from the Commissioner and thereafter, certain additional qualification was prescribed for the post and that was also ratified by the Commissioner. While so, when the process been approved and ratified by the Commissioner, it is too late for the Government to say that there was violation of recruitment rule at the inception and therefore, the selection process has to be set at naught. The Commissioner has granted permission to go for direct recruitment for the said posts and only thereafter, the recruitment process got commenced. In fact, additional qualification was prescribed for the said post and post ratification from the Commissioner was obtained. It is incorrect to say that the said post is only meant for promotees and not for direct recruitment. Referring the bye-laws of the Society, the learned counsel submitted that there is a proviso in the rule, which says that in case of no suitable candidate from the feeder post available, the Co-operative Union can go for direct recruitment. While the investigation conducted by the Vigilance Cell had not implicated her client and the enquiry conducted under Section 81 of the Act had not referred about the punishment or irregularity or illegality. Therefore, the termination order bristles with *mala fide*.



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14. Mr.K.S.Viswanathan, learned Senior Counsel submitted that in the case of Srilakshmi Prabha, one of the writ appellants, her appointment been set aside on the ground that she has not furnished proof that she is entitled to get the benefit of land owner. While the fact remains that, her father-in-law donated land to the Bharathidasan University and entitled for preferential consideration. Therefore, the reason for terminating her is without any basis.

15. Mr.Isaac Mohanlal, learned Senior Counsel appearing for some of the appellants has also submitted that even according to the respondents, out of 43 selected candidates, they were able to point out irregularity in their applications only for 24 candidates and therefore, nullifying the entire selection process after two years, is bristles with *mala fide* and non-application of mind. One of the grounds to suspect the applications and branded them as fraudsters is, submission of the application directly, which, according to the respondents, is contrary to the notification. No doubt, the notification says that there are two modes of submitting the application one by RPAD and another by speed post and the Annexure to the application clearly says that the application send by any other



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mode must reach the respondents on or before 15.07.2019 upto 05.45 p.m.

Therefore, when the instruction provides for submitting the application by any other mode, there cannot be any illegality or fraud in submitting the application directly. For justification of different handwriting in the application, the learned Senior Counsel submitted that, since the application was submitted through their representatives, certain details were filled up by their representatives. Therefore, contended that it is not an indication of any proof for fraud.

16. Per contra, the learned Additional Advocate General appearing for the General Manager would submit that it is not the fraud committed by the appointees capsulated under three categories and there are other irregularities and illegalities in the selection process, which have been surfaced during the enquiry conducted by the Vigilance Cell and enquiry conducted by the Deputy Registrar under Section 81 of the Act.

17. The learned Additional Advocate General submitted that the Court of co-ordinate strength in a batch of Writ Appeals had incisively verified the records and had weighed it, made series of observations regarding the illegality in the



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selection process. The order of the learned Judge, which is impugned in these Writ Appeals, also narrated and recorded the rampant violation of the Act and the Rule in the process of selection, which is inherent defect in the process of selection, which vitiates the entire selection process. Therefore, there is every justification for not conducting enquiry under each and every case on case to case basis.

18. The learned Additional Advocate General submitted that as far as Madurai Union is concerned, a few months just before the notification, the Madurai Union got bifurcated into Madurai and Theni Unions. The recruitment rules of the Co-operative Society mandates that the cadre strength of each Union should be approved by the Commissioner. In this case, the notification was issued without approval of the cadre strength by the Commissioner as per the rule. Commencing with this basic illegality, the selection process got progressed. Though several applicants were enclosed self-address postal cover to receive the call letters, none of them were served for call letters through post, but they were called to collect the hall tickets in person.



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19. The learned Additional Advocate General submitted that as far as Virudhunagar Union is concerned, the examination was conducted by private agency contrary to the rule, which contemplates that a committee should be constituted to oversee the recruitment process and the examination must be conducted by any College, which enjoy the autonomous status continuously for more than 10 years. In the case of Madurai Union, the Bharathidasan University, which has conducted the examination, but the selection committee was not constituted as per the Tamil Nadu Co-operative Societies Rules. Thus, the second inherent illegality in the selection process has taken place. Thirdly, though it is stated that Bharathidasan University has conducted the examination and submitted the OMR Sheets, the person, who was in-charge of conducting the examination, had refused to hand over the OMR sheets to the Enquiry Officer and the Enquiry Officer has recommended to take departmental action against the said person. That apart, on scrutiny of individual applications, it is found that there is no evidence to prove that they have submitted the applications in time as per the notification. There is no proof that their applications accompanied with demand draft. Though in the appeal stage, some information is produced by the learned



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counsel for the appellants as scanned elsewhere in this order. On verification of the demand draft numbers furnished, it is found that those demand drafts belong to other applicants and were implanted from the applications of those who were not informed about the examination or not selected.

20. The learned Additional Advocate General has emphasized that when the recruitment process has commenced without prior approval of the Commissioner, without approval of the cadre strength and constituting a selection committee as per the rule, *per se* gets vitiated due to patent illegality. In addition, the details found in the application of the selectees misused and the demand draft of other applicants to make as if the selectees have submitted their applications with demand draft, exposes the fraudulent conduct of the appointees and therefore, following the judgment of the Hon'ble Supreme Court cited by the Division Bench as well as the learned Judge in his order, which is impugned before this Court, the plea of the appellants been rightly rejected.

21. The learned Additional Advocate General also submitted that pursuant to the recommendation by the Division Bench, necessary action been initiated against the erring officials.



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WEB COPY 22. To show that the demand drafts now referred by the writ petitioners were not drawn by them, but by some other applicants, the learned Additional Advocate General has furnished a chart and also in nutshell had mentioned what is the violation as an individual committed. A scanned reproduction of the same reads as under:-

Madurai District Co-operative Milk Producer's Union Ltd., Madurai - 20

AAVIN MADURAI

S.No.	Name	DD Details as given in the Tabular column of the petitioner Counsel	Violations
1.	A.Suresh, Senior Factory Assistant 5/2013, Koviloor Village, Nallampalli, Dharmapuri - 636807.	680377 dt.11.07.2019 SBI	The said DD is in the name of A. Praveen, s/o. R.Anthony Francis 14/37, Kamuthi, Muslim Fajar street, Kamuthi, Ramanathapuram-623 603. one of the applicant for the post of Senior Factory Assistant in Serial no.244 in the official record maintained in the Madurai District Cooperative Milk Producers Union.
2.	S.Vinodkumar Senior Factory Assistant 59-1/34, Javoli J Kadai Street, Aruppukottai, Virudhunagar-626101.	17455 dt.26.06.2019 IDBI	No such DD was found in the records of the union, per contra in the said application form DD number was mentioned as 160429 which is in the name of S.Manuj one of the applicant in Serial no.266 in the official record maintained in the Madurai District Cooperative Milk Producers Union.
3.	B.Mohan, Senior Factory Assistant 3/100, West Street, Ramasampatti, Ramanathapuram-623603.	424069 dt.02.07.2019 Indian Bank	The said DD is in the name of N.Pravinraj, 349/L, East Street, Karumbalai, Madurai-20 one of the applicant for the post of Senior Factory Assistant in Serial no.203 in the official record maintained in the Madurai District Cooperative Milk Producers Union.
4.	P.Vijayakumar, Senior Factory Assistant 2/152-1, West Street, Ramasampatti,	474680301 dt.12.07.2019 SBI	No such DD as mentioned in the tabular column but per contra in original application DD Column was filled in the no.120029

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Madurai District Co-operative Milk Producer's Union Ltd., Madurai - 20

AAVIN MADURAI

Ramanathapuram-623603.			
S.No.	Name	DD Details as given In the Tabular column of the petitioner Counsel	Violations
5.	M.Jananipriya, Senior Factory Assistant 34, Pasumpon Muthuramalingam Street, Aruppukottai, Virudhunagar-626101	380879 dt.29.06.2019 Indian Bank	The said DD is in the name of V. Soundararaja perumal, s/o.P.Vijayarajan 10/30, Pillaiyar Kovil Street, Kariapatti, Virudhunagar-626106 one of the applicant in Serial no.2 in the official record maintained in the Madurai District Cooperative Milk Producers Union.
6.	P.Subbulakshmi, Senior Factory Assistant 2/40, South Street, Paralachi (po), Melaparalachi, Virudhunagar-626114.	424950 dt.28.06.2019 Indian Bank	The said DD is in the name of R.Karthick s/o.Raj, E-6, S.M.P Colony, Anna Nagar Madurai one of the applicant for the post of Senior Factory Assistant in Serial no.306 in the official record maintained in the Madurai District Cooperative Milk Producers Union. Application submitted belatedly on 05.10.2020 beyond the date of submission of application dated.15.07.2019
7.	M.Divyabharathi, Executive (Office) 329, Murugan Adi Street, Salem-636007.	963058716 dt.05.07.2019 IOB	The said DD is in the name of R.Manikandan one of the applicant in Serial no. 216



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Madurai District Co-operative Milk Producer's Union Ltd., Madurai - 20

AAVIN MADURAI

S.No.	Name	DD Details as given in the Tabular column of the petitioner Counsel	Violations
8.	P.Krishnaveni Senior Factory Assistant 2/85, East Street, Ramasampatti, Ramanathapuram-623603.	181045 dt.10.07.2019 Indian Bank, Annanagar	The said DD is in the name of M.Jaisankar, s/o.S.Muthu, Thai Nagar, Chinnanpanadi, Madurai-9 one of the applicant for the post of Senior Factory Assistant in Serial no.313
9.	R.Solairaj Senior Factory Assistant 2.95-3, East Street, Ramasampatti, Ramanathapuram-623603	181038 dt.10.07.2019 -----	The said DD is in the name of K.Ananthakumar, 4/326, Goundaankal St, Kayathri Nagar, Alavndan, Vandiyur, Madurai-20 one of the applicant for the post of Senior Factory Assistant in Serial no.409
10.	Satheeskanth Jedaja, Senior Factory Assistant 12, 4 th 1 st Cross Street, Kalainagar Nagar, Aruppukottai, Virudhunagar -626101.	17548 dt.15.07.2019 IDBI	No such name was found in the record and no such DD was found in that number per contra application was received without any DD details and date of submission of application.
11.	U.S.Irbhan Yasick, Senior Factory Assistant Door No.8/18, Valavanthapuram,	469182259 dt.12.07.2019 SBI	No such name was found in the record and no such DD was found in that number per contra application was received without any DD details and date of submission of application.

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Madurai District Co-operative Milk Producer's Union Ltd., Madurai - 20

AAVIN MADURAI

S.No.	Name	DD Details as given in the Tabular column of the petitioner Counsel	Violations
12.	Zinnah Street, Aruppukottai Taluk, Virudhunagar District.		
12.	D.Ponnuthai, Senior Factory Assistant 2/151, Mela Sreet, Ramasampatti, Ramanathapuram - 623603.	680378 dt.12.07.2019 SBI	No such name was found in the record and no such DD was found in that number per contra application was received without any DD details and date of submission of application.
13.	Sundara gopi, Senior Factory Assistant 42/5, SBK Elementry School Road, Arupukottai, Virudhunagar-626101.	17518 dt.08.07.2019 Indian Bank	The said DD is in the name of D.Richard sasiraj s/o, Diravia sahaya Raj, B4, Harvey Nagar 4 th Street, Madurai-625016 one of the applicant for the post of Senior Factory Assistant in Serial no.402
14.	K.Veerakumar, Senior Factory Assistant 3/46, West Street, Ramasampatti, Ramanathapuram-623603.	680384 Dt.12.07.2019 SBI	No such DD was found in the records maintained in the Union further application was received without any DD details and date of submission of application.

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Madurai District Co-operative Milk Producer's Union Ltd., Madurai - 20

AAVIN MADURAI

S.No.	Name	DD Details as given in the Tabular column of the petitioner Counsel	Violations
15.	V.Karthick, Senior Factory Assistant 3/57, Neeravi Colony, Neeravi, Ramanathapuram-623603.	680252 Dt.08.07.2019 SBI	The said DD is in the name of P.Karan, s/o.K.Palani, 11/34, North Street, M.Pallapacheri, Ramanatha puram - 623605 one of the applicant for the post of Senior Factory Assistant in Serial no.6 in the official record maintained in the Madurai District Cooperative Milk Producers Union.



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WEB COPY **23.** Heard the learned counsels on either side and perused the materials on record.

24. This Court, after giving anxious consideration to the rival submissions made by the learned counsels, particularly, the argument advanced by Mr.K.S.Viswanathan and Mr.Isaac Mohanlal, learned Senior Counsels, Mr.Cibi Chakraborty and Ms.J.Anandhavalli, learned counsels representing the appellants, is of the view that the above submissions made by the learned counsels for the appellants may have some bearing and relevancy, if there is only stray incident of fraud committed by the individuals, without patent illegality in the process. But, when there is a patent illegality in the process of selection, it is not necessary that all the beneficiaries of the selection process must have knowledge or party to the fraud. It is sufficient that the process from the inception bristles with illegality and unfairness.

25. In cases, where the process itself is bad and contrary to law, there is no necessity to analyse the case of individual beneficiaries on case to case basis. This principle been laid in several judgments by the Hon'ble Supreme Court,



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which has already been referred in the batch of Writ Appeals, decided by the coordinate bench, vide judgment dated, 13.10.2023 and also in the judgment of the learned Judge, which is impugned before us. Therefore, we need not refer the same further and for satisfaction and clarity, it is necessary to refer one judgment, which was rendered by the Hon'ble Supreme Court as early as 1970 in the **Bihar School Examination Board vs. Subhas Chandra Sinha and others [1970 (1) SCC 648]**, wherein the Hon'ble Supreme Court has observed as under:-

"13. This is not a case of any particular individual who is being charged with adoption of unfair means but of the conduct of all the examinees or at least a vast majority of them at a particular centre. If it is not a question of charging any one individually with unfair means but to condemn the examination as ineffective for the purpose it was held. Must the Board give an opportunity to all the candidates to represent their cases? We think not. It was not necessary for the Board to give an opportunity to the candidates if the examinations as a whole were being cancelled. The Board had not charged any one with unfair means so that he could claim to defend himself. The examination was vitiated by adoption of unfair means on a mass scale. In these circumstances it would be wrong to insist that the Board must hold a detailed inquiry into the matter and examine each individual case to satisfy itself which of the candidates had not adopted unfair means. The examination as a whole had to go.



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14. Reliance was placed upon Ghanshyam Das Gupta case [(1962) 3 Supp SCR 36] to which we referred earlier. There the examination results of three candidates were cancelled, and this Court held that they should have received an opportunity of explaining their conduct. It was said that even if the inquiry involved a large number of persons, the Committee should frame proper regulations for the conduct of such inquiries but not deny the opportunity. We do not think that that case has any application. Surely it was not intended that where the examination as a whole was vitiated, say by leakage of papers or by destruction of some of the answer books or by discovery of unfair means practised on a vast scale that an inquiry would be made giving a chance to every one appearing at that examination to have his say? What the Court intended to lay down was that if any particular person was to be proceeded against, he must have a proper chance to defend himself and this did not obviate the necessity of giving an opportunity even though the number of persons proceeded against was large. The Court was then not considering the right of an examining body to cancel its own examination when it was satisfied that the examination was not properly conducted or that in the conduct of the examination the majority of the examinees had not conducted themselves as they should have. To make such decisions depend upon a full-fledged judicial inquiry would hold up the functioning of such autonomous bodies as Universities and School Board. While we do not wish to whittle down the requirements of natural justice and fair-play in cases where such requirement may be said to arise, we do not



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want that this Court should be understood as having stated that an inquiry with a right to representation must always precede in every case, however different.

15. We are satisfied that no principle of natural justice was violated in this case. The Board through its Chairman and later itself reached the right conclusion that the examinations at this Centre had been vitiated by practising unfair means on a mass scale and the Board had every right to cancel the examination and order that a fresh examination be held. There was no need to give the examinees an opportunity of contesting this conclusion because the evidence in the case was perfectly plain and transparent. We therefore set aside the order of the High Court and ordered dismissal of the writ petition but made no order as to costs."

26. Thus, it is very clear that even if some participants are not party to an unfair means or fraudulent means, but, when the conduct and genesis of the selection process itself suffers from legal infirmity from very root of the matter, the exercise of probing into the genuineness of the individual candidates on case to case basis need not be undertaken. We are conscious of the fact that some of the appellants may be genuine candidates, they would not have been aware of the illegalities. However, we cannot give a seal of approval for their appointment,



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because there are candidates, who have applied, but not been considered either by depriving their chance of not issuing hall ticket or by manipulating the OMR Sheets. Therefore, those unknown innocent victims, who had lost their opportunity to get public employment, should also be protected. Therefore, the order of the learned Single Judge has to be confirmed, not only for the reason that, some of the applications does not contain required particulars or their applications not reached the respondents within the time or their participation in the examination is doubtful, but for the main reason that the very notification issued by the concerned Union itself is contrary to law and without following the procedure.

27. Further, the contention of the learned Additional Advocate appearing for the respondents that,

(i) the selection process was not approved by the Commissioner before notification;

(ii) after bifurcation of Madurai Union into two, the cadre strength should have been reviewed, which has not been done in this case; and

(iii) the rule of reservation substantially been violated, which cannot be



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cured when the selection itself *en masse* bristles with illegality.

are valid reasons to put at naught all the consequences of the notification. As held by the Hon'ble Supreme Court in **Sachin Kumar and others vs. Delhi Subordinate Service Selection Board (DSSSB) and others** reported in **2021 (4) SCC 631**, the selection process once loses its legitimacy, no option left except to cancel it in entirety.

28. We also add to say, from the enquiry report and the materials placed before this Court and before the Division Bench earlier, this Court has come to a conclusion that the purity and sanctity of the selection process been compromised to a larger extent. Therefore, we confirm the order of the learned Single Judge, which is in tune with the judgment of the Division Bench, dated 13.10.2023, in W.A.(MD)Nos.554 of 2023 etc. batch. Accordingly, all the Writ Appeals fail and the same are liable to be dismissed.

29. In fine, these Writ Appeals are dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Index : Yes
NCC : Yes

[G.J., J.] [C.K., J.]
26.03.2024



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To

- 1.The Commissioner of Milk Production and
Dairy Development Department,
Mathavaram Milk Colony,
Chennai – 600 051.
- 2.The Chairman,
Representing the board-cum-competent authority,
A.1301, Madurai District Co-operative Milk
Producers Union Ltd.,
Sathamangalam, Madurai District.
- 3.The General Manager,
A.1301, Madurai District Co-operative Milk
Producers Union Ltd.,
Sathamangalam,
Madurai District.
- 4.The Deputy Registrar (Dairying),
Dairy Development Department,
Aavin Complex,
Madurai.



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DR.G.JAYACHANDRAN, J.
and
C.KUMARAPPAN, J.

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PRE-DELIVERY COMMON JUDGMENT MADE IN
W.A.(MD)Nos.294, 295, 305, 311, 314, 335, 342 to 364 & 366 of 2024

26.03.2024

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