



W.P(MD).Nos.10156 & 10179 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

ORDER RESERVED ON : 19.12.2023

ORDER PRONOUNCED ON : 16.02.2024

**CORAM:
THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR**

**W.P.(MD).Nos.10156 & 10179 of 2023
and
W.M.P(MD).Nos.9021, 9024, 9107, 9108, 14503 & 22470 of 2023**

1.N.MathanbabuPetitioner in WP(MD).No.10156 of 2023

2.R.KalidhassPetitioner in WP(MD).No.10179 of 2023

Vs

1.The Commissioner of Milk Production
and Dairy Development Department
Mathavaram Milk Colony
Chennai 600 051

2.The Chairman
Representing by the Board cum Competent Authority
TID 483, Theni District Co-operative Milk Producers
Union Ltd.,
Natesh Apartments, Amman Nagar
Palanichettipatti
Theni District



W.P(MD).Nos.10156 & 10179 of 2023

3.The General Manager
TID 483, Theni District Co-operative Milk Producers
Union Ltd.,
Natesh Apartments, Amman Nagar
Palanichettipatti
Theni District

4.The Deputy Registrar (Dairying)
Dairy Development Department
Aavin Complex, Sathamangalam
Madurai 625 020

....Respondents in both petitions

Prayer in WP(MD).No.10156 of 2023: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the first respondent in Na.Ka.No.2413/M.2/2021-1 dated 30.12.2022 and the consequential order passed by the third respondent in Na.Ka.No. 0069/Admin/2023 dated 06.01.2023 and quash the same and further direct the respondents to permit the petitioner to continue in the post of Executive Officer Grade-II within a reasonable time with all attendant benefits.

Prayer in WP(MD).No.10179 of 2023: This Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records in connection with the impugned order passed by the first respondent in Na.Ka.No.2413/M.2/2021-1 dated 30.12.2022 and the consequential order passed by the third respondent in Na.Ka.No. 0054/Admin/2023 dated 06.01.2023 and quash the same and further direct the respondents to permit the petitioner to continue in the post of Technician (Lab) within a reasonable time with all attendant benefits.



W.P(MD).Nos.10156 & 10179 of 2023

(In both the petitions)

For Petitioners : Mr.K.S.Viswanath
Senior Counsel
For M/s.A.Banumathy

For Respondents : Mr.Veera.Kathiravan
Additional Advocate General
Assisted by Mr.J.Devasenar
Standing counsel for the respondents

COMMON ORDER

The present writ petitions have been filed by the employees of the second respondent Co-operative Milk Producers Union challenging the order passed by the first respondent herein on 30.12.2023 directing the third respondent to cancel the appointment order and the consequential order passed by the third respondent on 06.01.2023 cancelling the order of appointments.

2.Facts leading to the filing of these writ petitions are as follows:

(i)The third respondent had issued an employment notification in Advertisement No.2 of 2021 on 26.01.2021 calling for applications from eligible candidates for various posts.

(ii)The petitioner in WP(MD).No.10156 of 2023 had applied to the post of Extension Officer Grade-II which was reserved for MBC-DNC priority category.



W.P(MD).Nos.10156 & 10179 of 2023

(iii)The petitioner in WP(MD).No.10179 of 2023 had applied for the post of Technician (Lab) which was reserved for General Turn-Priority. For both these posts, the priority is for the owner of the land acquired by the Government.

(iv)The petitioners in WP(MD).No.10156 of 2023 had appeared for a written examination on 14.02.2021 and on being successful, he had appeared for an interview and certificate verification on 26.02.2021.The said petitioner was appointed to the post of Extension Officer Grade-II on 05.05.2021 and he joined the said post on 06.05.2021.

(v)The petitioner in WP(MD).No.10179 of 2023 had applied for the post of Technician (Lab) and he attended for an interview and certificate verification on 24.02.2021. On being successful, he was issued with an appointment order on 05.05.2021 and he joined duty on 06.05.2021.

3.Based on complaints from the general public alleging illegalities/irregularities in the recruitment process, the first respondent herein by his proceedings dated 30.11.2021 had initiated enquiry under Section 81 of the Tamil Nadu Co-operative Societies Act and appointed the Deputy Registrar (Dairy), Madurai as the Enquiry Officer. He submitted the enquiry report on 05.05.2022. Based upon the said report, the first respondent had passed the impugned order on 30.12.2022 directing the third respondent to cancel all the appointments that were made in the union based upon the



W.P(MD).Nos.10156 & 10179 of 2023

advertisement dated 26.01.2021. In compliance with the said order, the third respondent had passed the consequential impugned order on 06.01.2023 cancelling the appointment orders issued to the writ petitioners.

4.A perusal of the impugned orders in both the writ petitions reveal that the appointment orders have been cancelled on the ground that the petitioners appointment is solely based upon the priority claimed by them based upon the owner of the land acquired by the Government.

5.According to the impugned order, both the writ petitioners are not entitled to the benefit of such priority, in view of the fact that they have not suffered any acquisition proceedings, but they have only voluntarily donated their lands to the Co-operative Society. Challenging these two orders, the present writ petitions have been filed.

6.Contentions of the learned counsel appearing for the writ petitioners are as follows:

(i)The learned counsel appearing for the writ petitioners had contended that the petitioner's father in WP(MD).No.10156 of 2023 had donated an extent of 1 acre in the year 1991-1992 for Agricultural Engineering Department for construction of seepage pond. The Tahsildhar has also issued a certificate to the said effect on 05.03.2016 indicating the priority. Therefore, according to the learned counsel appearing for the writ petitioner being a son of the land loser, he is entitled to the said priority.



W.P(MD).Nos.10156 & 10179 of 2023

(ii) The learned counsel for the petitioner had further contended that the petitioner's father in WP(MD).No.10179 of 2023 had donated 1 acres of land to the Government Engineering College in the year 2009. The Tahsildhar, Bodiyanakanur has also issued a certificate to the said effect. The petitioner has been selected only based upon the said certificate.

(iii) The learned counsel had further contended that in the impugned order, it is stated that the certificate relating to the priority is not proper and they have proceeded to cancel the order of appointment. The authorities have not stated the reason for not accepting the said certificate. In such circumstances, the respondents ought to have given an opportunity to the writ petitioners to show cause why the appointment orders should not be cancelled. Therefore, cancellation of the appointment orders are clearly in violation of the principles of natural justice.

7.Contentions of the learned Additional Advocate General appearing for the State are as follows:

(i) The learned Additional Advocate General had contended that the land loser priority quota can be invoked only in cases where the lands are acquired by the Government. However, in the present case, the father of the respective petitioners have voluntarily donated some lands to the Government Institution. The appointment of both the petitioners is solely based upon the



W.P(MD).Nos.10156 & 10179 of 2023

said priority and therefore, the authorities were right in cancelling the orders of appointment.

8.I have considered the submissions made on either side and perused the material records.

9.Discussion:

(i)It is an admitted fact that the appointment of both the petitioners is under the priority quota claimed by the respective writ petitioners on the ground that their father had donated some lands to the Government Institution.

(ii)The law relating to the priority quota under the land loser category is governed by G.O.Ms.No.656 Labour and Employment Department dated 29.06.1978. A perusal of the said order indicate that it is applicable only to cases where the lands were acquired by the Government. The appointing authority has to further verify whether the land was the major source of sustenance of family displaced from the land acquired. However, in both the cases, it is a voluntary gift of land by the owner to the Government Institution. There is no compulsory acquisition of land by the Government. Therefore, the petitioners' father cannot be considered to be a land loser whose family members can seek priority in the employment.

(iii)Any certificate issued by Tahsildhar could only reflect the fact that the lands have been donated to Government Institution and those certificates



W.P(MD).Nos.10156 & 10179 of 2023

would not be of any help to the writ petitioners for claiming priority.

WEB COPY

(iv) A perusal of the employment notification indicates that the posts for which the petitioners have been selected and appointed are reserved for priority candidates falling under the land loser category. When the petitioners do not belong to the family which has lost their lands during the acquisition proceedings, the third respondent was not right in issuing an appointment order based upon the certificate issued by Tahsildhar. The petitioners have no other defence to defend the said certificate. Hence, the non-issuance of any show cause notice would not cause any prejudice to the writ petitioners.

10. In view of the above said facts, remitting the matter back to the authorities for non-issuance of show cause notice would only be an empty formality. Hence, this Court is of the considered opinion that the authorities were right in cancelling the orders of appointment which was solely based upon an irrelevant certificate issued by Tahsildhar.

11. In view of the above said deliberations, there are no merits in the writ petitions. Both the writ petitions stand dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

16.02.2024.

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



W.P(MD).Nos.10156 & 10179 of 2023

To
WEB COPY

1.The Commissioner of Milk Production
and Dairy Development Department
Mathavaram Milk Colony
Chennai 600 051

2.The Chairman
Representing by the Board cum Competent Authority
TID 483, Theni District Co-operative Milk Producers
Union Ltd.,
Natesh Apartments, Amman Nagar
Palanichettipatti
Theni District

3.The General Manager
TID 483, Theni District Co-operative Milk Producers
Union Ltd.,
Natesh Apartments, Amman Nagar
Palanichettipatti
Theni District

4.The Deputy Registrar (Dairying)
Dairy Development Department
Aavin Complex, Sathamangalam
Madurai 625 020



WEB COPY



W.P(MD).Nos.10156 & 10179 of 2023

R.VIJAYAKUMAR, J.

msa

Pre-delivery common order made in

W.P.(MD).Nos.10156 & 10179 of 2023
and W.M.P(MD).Nos.9021, 9024, 9107,
9108, 14503 & 22470 of 2023

16.02.2024