



WP(MD) No.19783 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.06.2024

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD)No.19783 of 2023

and

WMP(MD)Nos.16338, 16339 & 16340 of 2023

U.Sangilimurugan

.. Petitioner

Vs.

1. The District Collector,
O/o. the District Collector,
Madurai District.

2. The Tahsildar,
O/o. the Tahsildar,
Peraiyur Taluk,
Madurai District.

.. Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records impugned orders in Proceedings Na.Ka.No. 2689/2022/A1 dated 12.07.2023 on the file of Respondent No.2 and



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quash the same as illegal and consequently direct the Respondents to appoint the petitioner as Village Assistant at Kunnathur village, Peraiyur taluk, Madurai District with consequential benefits within the time stipulated by this Court.

For Petitioner : Mr.T.Thirumurugan

For Respondents : Mr.T.Amjadkhan
Government Advocate

ORDER

This writ petition has been filed for issuance of Writ of Certiorarified Mandamus, to quash the impugned order in Proceedings Na.Ka.No.2689/2022/A1 dated 12.07.2023 on the file of Respondent No.2 and consequently direct the Respondents to appoint the petitioner as Village Assistant at Kunnathur village, Peraiyur taluk, Madurai District with consequential benefits within the time stipulated by this Court.

2. Heard Mr.T.Thirumurugan, learned counsel appearing for the petitioner and Mr.T.Amjadkhan, learned Government Advocate appearing for the respondents.



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3. The petitioner got selected to the post of Village Assistant but the appointment order has not been issued to him by alleging that the petitioner has got criminal precedents. The learned counsel for the petitioner submitted that an FIR was registered against him in Crime No. 308 of 2021 for the offence under Section 151 Cr.P.C., on 02.12.2021 in view of the proposed protest to be demonstrated against the State and Central Governments for opposing the price hike of Petrol and Diesel and impact of GST Tax in building construction materials. On this premise, it is presumed that there are possibilities that the petitioner could have aligned himself with the CITU Party and hence, the authorities came to the conclusion that his conduct and character are not satisfactory and on that ground, his appointment for the post of Village Assistant has not been issued.

4. The learned counsel for the petitioner submitted that in the said FIR, he was arrayed as 57th accused and the said FIR has been quashed by virtue of the order of this Court passed in CrI.O.P(MD)No.4872/2023



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dated 15.03.2023. However, when the petitioner made a representation along with the order of this Court dated 15.03.2023, his representation was rejected stating that the petitioner had involved in the following cases:

Sl. No.	Crime No.	Section of Law	Present Stage	Police Station
1	187/2015	151 Cr.P.C	Action Dropped	T.Kallupatti Police Station
2	195/2016	151 Cr.P.C	Action Dropped	T.Kallupatti Police Station
3	07/2019	151 Cr.P.C	Action Dropped	T.Kallupatti Police Station
4	308/2021	151 Cr.P.C	Action Dropped	T.Kallupatti Police Station
5	34/2016	151 Cr.P.C	Action Dropped	Villur Police Station.

5. It is further stated in the impugned order that the petitioner had suppressed those material facts at the time of submitting his submission. It is the submission of the learned counsel for the petitioner that so far as his knowledge he came to know about the pending FIR in Crime No.308 of 2021 and that has been quashed subsequently. The petitioner did not have any intention to suppress any material facts in view of the fact that



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he himself did not know that there were cases registered against him. In all the cases said to be registered against the petitioner for the offence under Section 151 Cr.P.C., the action has been dropped subsequently.

6. The learned counsel for the petitioner submitted that the petitioner has not been arrested in any of the above cases and hence he did not even know about the cases registered against him.

7. However, Mr.T.Amjadkhan, learned Government Advocate for the respondents submitted that the petitioner had wantonly suppressed his involvement in the above cases and hence, there is suppression of material facts. Making a false statement in the application Form as against those column regarding arrest, prosecution and conviction etc., will have a clear bearing on the conduct, character and antecedents of an applicant and only on consideration of these facts the impugned order was issued.

8. The attention of this Court was attracted to the judgment of the Hon'ble Division Bench of this Court rendered in WA.(MD).No.938 &



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939 of 2020 batch dated 05.06.2023. In that case, the petitioners had chosen three grounds to challenge the rejection of their appointment.

For the sake of clarity, it is extracted hereunder:

“8. The Writ Appeals and the Writ Petitions that are listed before us challenging the rejection of the candidature or accepting the candidature can be classified on the following grounds:

“(1). Honourable acquittal, discharged mistake of fact, quashing of F.I.R/charge sheet.

(2). Acquitted on benefit of doubt or due to hostility of the witnesses.

(3). Proceedings quashed on compromise between the parties.”

9. While dealing with those grounds, the Court has touched upon the various decisions rendered by the Hon'ble Supreme Court on the above subject. While discussing about the suppression of involvement in a criminal case, a reference was made to the judgement of the Hon'ble Supreme Court rendered in a case of ***Avtar Singh vs Union Of India & Ors reported in 2016 (8) SCC 471***, wherein the Hon'ble Supreme Court held that before a person is held to be guilty for suppressing a fact or giving false statement, his knowledge about the fact must be attributable to him. So the sum and substance of the said judgement is that if a candidate has knowledge about his involvement in a criminal case, not



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being a severe case and suppressed the same at the time of filing the application, he is not entitled to seek any appointment. But, in the cases where information was not furnished in the application Form relating to an offence 'not being trivial in nature', the employer in his discretion is entitled to consider his candidature by considering his conduct and character and past antecedents.

10. The learned counsel appearing for the petitioner attracted the attention of this Court to the judgment of this Court in **W.P.No.7828 of 2020, dated 21.11.2023**, wherein, the Court has observed as under :

"8. The main focus of Mr.P.Kumaresan, learned Additional Advocate General for the respondents is point (d). So it is submitted that the petitioner who had been taken to the police station for consecutive two days could have been aware of his arrest and such important information ought not to have been concealed by him while submitting his application. 9. The summary of preposition of law arrived on the basis of the earlier Supreme Court judgements and the dictum laid down in Avathar Sign case (cited supra) is that for cases trivial in nature, exemption can be given. It is obviously because of the fact that the person concerned himself could not have been aware of his involvement in a trivial case, if the police happened to register an FIR by including his name. As per the police regulations or rules of criminal procedure code, we do not have the habit of issuing the copy of the FIR to the accused immediately after registering the same. What is mandated after registering the FIR is to furnish a copy to the complainant.



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11. *This is especially so, when arrests are made in connection with any protest demonstrated or proposed to be demonstrated for any reasons. So before finding fault with the petitioner that he had suppressed any information that he had been arrested and involved in the above two trivial cases, it should be made clear that the petitioner had the knowledge about his arrest and despite that he suppressed the information. The impugned order does not have any materials including the copy of intimation of arrest if any alleged to have been given to the petitioner on those days.*

13. *Only in view of the above said factors, even when law was settled on this exemption was given to the trivial offences, unless it is made crystal clear that the person concerned had knowledge about his involvement in the trivial case. Even in the impugned order it has not been stated that the petitioner had suppressed the essential facts even though he had the knowledge. Since essential facts have not been taken into consideration, the petitioner cannot be found guilty for suppressing any important information.*

16. *Since the impugned order has been passed without having any solid ground materials that the petitioner had wantonly suppressed the information of involving in a trivial case, his appointment ought not to have been rejected. As already stated, the impugned order also does not state that the petitioner had knowledge about his involvement in the trivial cases. In such context of the matter, I feel the impugned order is liable to be set-aside."*

11. In the instant case also, it appears that the 2nd respondent has not given the appointment to the petitioner only because of the filing of the FIR against the petitioner for the offence under Section 151 Cr.P.C. and the petitioner has got no knowledge about the other cases except the case in Crime No.308 of 2021 in which he was arrayed as 57th accused



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and the same was quashed by this Court vide order dated 15.03.2023.

Hence, the above case is squarely applicable to the case on hand also.

Following the same, the petitioner is also entitled to get the same relief as granted above.

12. In the result, this writ petition is **allowed** and the impugned order dated 12.07.2023 is set aside. The respondents are directed to appoint the petitioner to the post of Village Assistant by direct recruitment in the year 2022 in which he got selected in Serial No.13 of the provisional Selected Candidates List published on 28.01.2023 with notional seniority without backwages, within a period of twelve weeks from the date of receipt of a copy of this order. No Costs. Consequently, connected miscellaneous petitions are closed.

20.06.2024

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

To
1. The District Collector,

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O/o. the District Collector, Madurai District.

2. The Tahsildar,
O/o. The Tahsildar,
Peraiyur Taluk, Madurai District.



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R.N.MANJULA, J.

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