



W.P(MD)No.21524 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 01.08.2024

Delivered on : 23.08.2024

CORAM :

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

W.P(MD)No.21524 of 2021

and

W.M.P.(MD)No.18081 of 2021

A.Raj Kapoor

... Petitioner

Vs.

1.The State of Tamil Nadu

Rep.by its Principal Secretary to Government,
Backward Classes, Most Backward Classes and
Minorities Welfare (S1) Department,
Secretariat, Chennai.

2.The District Collector,
Karur District, Karur.

3.Sirajudeen Ahamed Rashathi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorari, to call for the records relating to the impugned G.O.(D)No.76 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 16.11.2021 passed by the first respondent and quash the same as illegal.



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For Petitioner : Mrs.H.Jasima Yasmine,
for M/s.Ajmal Associates.

For Respondents : Mr.V.Om Prakash,
Government Advocate, for R1 & R2.

: Mr.I.Abrav Nid Abdullah, for R3.

ORDER

The Writ Petition is directed against the Government Order in G.O.(D)No.76 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 16.11.2021, passed by the first respondent.

2. The case of the petitioner is that there existed a vacancy to the post of Kazi for Karur District, due to the death of the then District Kazi of Karur ie., Thiru.N.A.Abdul Rahim Rashadi; that the District Level Section Committee was constituted in the light of G.O.(Ms)No.30 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 05.07.2002; that 5 Ulemas and 2 prominent persons of the District were appointed as members of the selection committee by the second respondent vide his proceedings, dated 08.09.2021; that 8 persons



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had applied to the said committee for being appointed as Kazi and after interviewing all the candidates, the Selection Committee gave their choice in writing individually of three names each; that finally Selection Committee members were informed of three selected candidates (i)K.A.Mohamed Yusuf, (ii) A.A.Abul Hasan Shadali and (iii) N.A.Mohamed Zacharia; that to the petitioner's shock and surprise, the first respondent passed the impugned G.O.(D)No.76 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 16.11.2021 appointing the third respondent as the Karur District Kazi for a period of three years as per Section 2 of the Kazi's Act 1880; that the third respondent was not at all recommended by the District Selection Committee; that the petitioner came to know that one of the members of the District Selection Committee Mr.Sirazudeen Hazrat, who is none other than the son of the third respondent has only proposed his father's name; that the first respondent without the recommendation of the District Selection committee has appointed the third respondent and the same itself would show the malafide of the respondents and the impugned Government Order is a product of colourable exercise of power; that the third respondent has been in continuous indulgence of misappropriating funds and property of Jamia



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Masjid and as such the third respondent is not the appropriate person to appoint as a District Kazi and that since the first respondent has no authority in law to appoint a person other than those recommended by the District Selection Committee, the impugned order is contrary to the very purpose of G.O.Ms.No.30 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 05.07.2002 and therefore, the petitioner was constrained to approach this Court invoking Article 226 of the Indian Constitution.

3.The second respondent has filed a counter affidavit disputing the petitioner's charges and further stated that the second respondent has issued press release on 16.07.2021 inviting applications from the eligible persons for the constitution of the District Level Selection Committee and to select the list of eligible and qualified persons for the appointment of Kazi of Karur District; that 18 applications were received for the appointment as members of the selection committee and 8 applications were received by the second respondent for the appointment as Kazi of Karur District; that out of 11 applications received from Ulemas and out of 7 seven petitions received from the prominent and important Muslim people, 5 qualified Ulemas and 2 prominent and important Muslim



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persons were selected by the second respondent, after conducting an interview on 08.09.2021 and constituted the District Level Selection Committee; that the District Level Selection Committee conducted the interview of the 8 candidates on 08.09.2021 under the Chairmanship of the second respondent and the selection committee members proposed five persons for consideration and appointment as Kazi of Karur District,

- i.e., (i) K.A.Mohamed Yousuf (aged 57 years) ,
(ii) A.Mohamed Abdul (aged 54 years)
(iii) N.A.Mohamed Zacharia (Aged 38 years)
(iv) E.M.Sulthan Syed Ibrahim (Aged 51 years)
(v) Sirajudeen Ahmed Rashathi (Aged 57 years)

As per the Government letter, dated 30.09.2020, minimum age limit for the appointment of Kazi is fixed 40 years; that though the District Level Committee has provisionally selected the first three persons, since the third person N.A.Mohamed Zacharia, was aged only 38 years and not fulfilled the minimum age criteria, his name was not recommended and instead of that ineligible person, the name of the other qualified person namely the third respondent's name was included and the proposal was sent to the Government; that the first respondent having received the detailed proposal with the panel of names from the second



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respondent vide his letter, dated 04.10.2021, the Government after careful examination have appointed the third respondent herein as Kazi for Karur District as per Section 2 of the Kazi's Act 1880 for a period of three years vide impugned G.O.(D)No.76, Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 16.11.2021; that as per the Government order, dated 05.07.2002 a person to be appointed as District Kazi, should be an Aalim or Fazil, well versed in Islamic jurisprudence or served as a Professor or Teacher in any recognized Arabic College or institution and the third respondent possesses the qualification prescribed for occupying the position of District Kazi; that as per Section 2 of Kazi's Act the decision taken by the State Government whether any person has been rightly appointed as Kazi shall be conclusive and as such, the Writ Petition is not maintainable and that therefore, the petition is liable to be dismissed.

4. It is not in dispute that due to the death of the then District Kazi of Karur, Thiru.N.A.Abdul Rahim Rashadi, the second respondent has constituted a District Level Selection Committee in the light of the Government Order in G.O.(Ms)No.30 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated



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05.07.2002 for the purpose of recommending a panel of three candidates for appointing a District Kazi of Karur. It is also not in dispute that the District Level Selection Committee consists the second respondent/District Collector, 5 qualified Ulemas and 2 prominent and important Muslim citizens of the concerned District, nominated by the District Collector.

5. In the counter affidavit, the first respondent has also narrated the steps taken for constituting the District Level Selection Committee , but the constitution of the District Level Selection Committee is not under challenge in the present writ petition and the only challenge is the appointment of the third respondent as the District Kazi of Karur.

6. It is admitted by both the parties that the District Level Selection Committee consists of 7 persons, namely, (i) A.Anwardeen, (ii) P.Abdul Hameed Husaini, (iii) S.Tamimmul Ansari, (iv) Noorullaha, (v) M.Abdul Rahman, (vi) Va.V.Mohamed Igbal, (vii) Sa.Shake Abdul Kadar, apart from the second respondent/District Collector. At the time of hearing, considering the submission made by the learned counsel for the petitioner that the third respondent was not at all recommended by the



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District Level Selection Committee for appointment of Kazi, this Court directed the learned Government Advocate appearing for the official respondents to produce the report sent by the District Collector along with the recommendation of the District Level Selection Committee and the connected records relating to the selection process. The second respondent has not produced any such report with their recommendation, but only produced the Xerox copies of the some papers allegedly recorded on 28.09.2021, the date on which, the meeting of the committee was convened.

7. As rightly contended by the learned counsel for the petitioner, it is evident from the said papers that out of 7 committee members, all of them have proposed the name of the candidate K.A.Mohamed Yousuf and six of them have proposed the names of A.A.Abul Hasan Shadali and N.A.Mohamed Zacharia.

8. According to the respondents, since the said N.A.Mohamed Zacharia was not possessing the minimum age criteria of 40 years as he was aged 38 years at that time, he has become ineligible. It is pertinent to note that out of seven committee members only one member has



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proposed the names of the candidates Sirajudeen Ahmed Rashathi (3rd respondent herein) and E.M.Sulthan Syed Ibrahim and other three candidates, namely, N.A.Kaliloor Rahman Bagavi, A.C.A.Mohamed Musthafa and M.A.Mohamed Asraf Ali, were not proposed by any of the committee members.

9. The petitioner's contention that the committee member Noorullah is none other than the son of the third respondent, is not disputed. As rightly pointed out by the learned counsel for the petitioner, the said Noorullah, son of the third respondent has alone proposed the name of his father. In the other papers containing the names of the candidates, they have written some percentage in handwriting and near the candidate Mohamed Yousuf, they have mentioned 65%; for A.A.Mohamed Abul Hasan Shadali 75%, N.A.Mohamed Zacharia 68%, A.C.A.Mohamed Musthafa 60 % and Sirajudeen Ahamed Rashadi (50%) and the above percentage was alleged to have given by the committee member P.Abdul Hameed. Similarly, they have produced the percentage given by the some members of the committee and not by all the members of the committee.



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10. When a specific question was put to the learned Government Advocate as to on what basis, the above percentage was given and what were the criteria taken into account for giving such a percentage, there was no proper reply from the official respondents.

11. It is pertinent to mention the basic norms or guidelines for a selection committee to follow when selecting a candidate for a particular post are that there should be transparent criteria and for this, they have to establish clear, measurable and relevant selection criteria; that there should be confidentiality as they have to maintain confidentiality throughout the selection process; that there must be impartiality as they have to ensure that committee members are impartial and free from conflicts of interest; that the candidates have to be evaluated based on their qualifications, experience and performance in assessments or interviews; that the best candidate based on merit, without bias or discrimination has to be selected; that they have to avoid bias, prejudice or personal preferences and that there should be consistency as the same criteria and standards have to be applied to all the candidates. The selection process should be guided by reasonableness and not be arbitrary and that the selection committee should make decisions based



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on logical and rational consideration rather than personal biases or whims by avoiding arbitrariness and embracing reasonableness, the selection committee can ensure a fair and credible process. Bearing the above basics in mind, let us consider the case on hand.

12. As already pointed out, even after a specific direction of this Court, the official respondents have not chosen to produce the report of the District Collector and the recommendation made by the District Level Selection Committee to the first respondent. They have not even produced any materials to show as to on what basis, the third respondent was included in the panel.

13. No doubt, as already pointed out, the other two candidates had requisite support from the majority of the committee members. But on the other hand, the third respondent was recommended by only one person, who is none other than his own son.

14. As already pointed out, in the counter affidavit, the second respondent has taken a stand that as per Section 2 of the Kazis Act 1880, the decision taken by the State Government with regard to the



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appointment of Kazi shall be conclusive. It is not in dispute that the District Level Selection Committee has sent a panel recommending three names of three candidates and that the first respondent has selected and appointed the third respondent as Kazi of the District.

15. Admittedly, the first respondent has not filed any counter affidavit. The first respondent has not produced any material to show as to why the third respondent was preferred than other two candidates, who got approval from the majority of the committee members. No doubt, the Government as the competent authority has the power to appoint a Kazi, but such appointment should not be arbitrary or based on whims and fancies.

16. Even the first respondent has not furnished any particulars as to whether any meeting was convened by the Backward Classes and Minorities Welfare (S1) Department for selection of a candidate from the panel recommended by the District Level Selection Committee and the basis on which, the selection was made.



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17. Considering the above, this Court has no hesitation to hold that all was not well with the appointment of the third respondent as they have utterly failed to establish the compliance of the basic norms and guidelines applicable for selection process. Consequently, this Court concludes that the impugned Government Order appointing the third respondent as Kazi of Karur District is liable to be quashed and is quashed accordingly.

18. It is very unfortunate that a person, whose appointment is declared as illegal, has served as Kazi of Karur District for the past more than 2 ½ years as the impugned Government Order came to be passed on 16.11.2021 and is having four months tenure. Since the third respondent has already served as Kazi of Karur District for more than 2 ½ years, at this stage it will not be proper and appropriate to question or challenge the orders passed or actions taken by the third respondent in the capacity of District Kazi.

19. In the result, the Writ Petition is allowed and the impugned G.O.(D)No.76 Backward Classes, Most Backward Classes and Minorities Welfare (S1) Department, dated 16.11.2021 passed by the first



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respondent is quashed. The respondents 1 and 2 are hereby directed to take necessary steps as per Kazi's Act 1880, and related Government Orders for appointment of the District Kazi of Karur District by adopting the basic norms and guidelines applicable for selection process. Consequently, connected Miscellaneous Petition is closed. No costs.

23.08.2024

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

To

- 1.The State of Tamil Nadu
Rep.by its Pricipal Secretary to Government,
Backward Classes, Most Backward Classes and
Minorities Welfare (S1) Department,
Secretariat, Chennai.
- 2.The District Collector,
Karur District, Karur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J

das

Pre-delivery order made in
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Dated : 23.08.2024