



WP(MD) Nos.27941, 27942, 26144 of 2023 & 11406 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.06.2024**

CORAM:

THE HONOURABLE MS.JUSTICE R.N.MANJULA

W.P.(MD) Nos.27941, 27942, 26144 of 2023 & 11406 of 2024
and

W.M.P(MD)Nos.24049 to 24051, 24047, 22499, 22501, 22502 of
2023, 10141 & 10142 of 2024

W.P.(MD) No.27941 of 2023

1.K.S.Rajmohan

2.R.Chellankannu

3.K.Bashyam

4.K.Panneer Selvam

5.S.Mathiyalagan

6.V.Udayakumari

... Petitioners

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Department of Rural Development of Panchayat Raj,
Secretariat, Chennai.



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2.The Principal Secretary of Government of Tamilnadu,
Department of Health and Family Member,
Secretariat, Chennai.

3.The Director of Vigilance of Anti Corruption,
Chennai.

4.The Director of Social Welfare,
Chennai.

5.The District Collector
Pudukkottai.

6.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Pudukkottai.

7.The Inspector of Police,
Vigilance and Anti Corruption,
Pudukkottai.

8.Ganesh

9.Muthu

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10. Anbanandam

11. Peter

12. Tamil Selvi

13. Amudha

14. Saranya

15. Muthulakshmi

16. Ambika

17. Mahalakshmi

18. Shanmugapriya

19. Nithyapriya

20. Manimekalai

21. Karthika

22. Madhubala

23. Vinodhini

24. Kavitha

25. Sumathi

26. Uma Makeshwari

27. Kavitha

28. Rajamani

29. Sathya

30. Sudha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution

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of India for issuance of Writ of Certiorari to call for the records in TDP Case No.6B/2023 and TDP Case No.6K/2023 and TDP Case No.6G/2023 and TDP Case No.6D/2023 and TDP Case No.6V/2023 and TDP Case No.6I/2023 dated on 31.07.2023 pending on the file of the Tribunal for Disciplinary Proceedings, Trichy and quash the same as illegal and arbitrary.

For Petitioners : Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Ganapathi Subramanian

For Respondents : Mr.T.Amjad Khan, - for R1 to R7
Government Advocate

W.P.(MD) No.27942 of 2023

1.A.Arul

2.C.Vijayakumari

3.M.Shanthi

... Petitioners

Vs.



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- 1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Secretariat, Chennai.
- 2.The Principal Secretary of Government of Tamilnadu,
Department of Health and Family Member,
Secretariat, Chennai.
- 3.The Principal Secretary of Government of Tamilnadu,
Department of Rural Development of Panchayat Raj,
Secretariat, Chennai.
- 4.The Director of Vigilance of Anti Corruption,
Chennai.
- 5.The Director of Elementary Education,
Chennai.
- 6.The Director of Social Welfare,
Chennai.
- 7.The District Collector
Pudukkottai.



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8.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Pudukkottai.

9.The Inspector of Police,
Vigilance and Anti Corruption,
Pudukkottai.

10.Ganesh

11.Muthu

12.Anbanandam

13.Peter

14.Tamil Selvi

15.Amudha

16.Saranya

17.Muthulakshmi

18.Ambika

19.Mahalakshmi

20.Shanmugapriya

21.Nithyapriya

22.Manimekalai

23.Karthika

24.Madhubala



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25.Vinodhini

26.Kavitha

27.Sumathi

28.Uma Makeshwari

29.Kavitha

30.Rajamani

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records in TDP Case No.6C/2023 dated 31.07.2023, TDP Case No.6L/2023 dated on 31.07.2023 and TDP Case No.6J/2023 dated on 31.07.2023 pending on the file of the Tribunal for Disciplinary Proceedings, Trichy and quash the same as illegal and arbitrary.

For Petitioners : Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Ganapathi Subramanian

For Respondents : Mr.T.Amjad Khan, - for R1 to R9
Government Advocate
Mr.M.Rajarajan – for R12



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Mr.H.Mohamed Imran – for R11
for M/s.Ajmal Associates

W.P.(MD) No.26144 of 2023

1.Senguttuvan

2.Ponnazhagu

... Petitioners

Vs.

1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Secretariat, Chennai.

2.The Principal Secretary of Government of Tamilnadu,
Department of Health and Family Member,
Secretariat, Chennai.

3.The Principal Secretary of Government of Tamilnadu,
Department of Rural Development of Panchayat Raj,
Secretariat, Chennai.

4.The Director of Vigilance of Anti Corruption,
Chennai.



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5.The Director of Elementary Education,
Chennai.

6.The Director of Social Welfare,
Chennai.

7.The District Collector
Pudukkottai.

8.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Pudukkottai.

9.The Inspector of Police,
Vigilance and Anti Corruption,
Pudukkottai.

10.Ganesh

11.Muthu

12.Anbanandam

13.Peter

14.Tamil Selvi

15.Sathya

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16.Sudha
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... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records in TDP Case No.6F/2023 dated 31.07.2023, TDP Case No.6H/2023 dated on 31.07.2023 pending on the file of the Tribunal for Disciplinary Proceedings, Trichy and quash the same as illegal and arbitrary.

For Petitioners : Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Ganapathi Subramanian

For Respondents : Mr.T.Amjad Khan, - for R1 to R9
Government Advocate
Mr.M.Rajarajan – for R12
Mr.H.Mohamed Imran – for R11
for M/s.Ajmal Associates



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Gopalakrishnan

... Petitioner

Vs.

- 1.The Principal Secretary to Government of Tamil Nadu,
Department of Rural Development of Panchayat Raj,
Secretariat, Chennai.
- 2.The Principal Secretary of Government of Tamilnadu,
Department of Health and Family Welfare,
Secretariat, Chennai.
- 3.The Director of Vigilance of Anti Corruption,
Chennai.
- 4.The Director of Social Welfare,
Chennai.
- 5.The District Collector
Pudukkottai.



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6.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Pudukkottai.

7.The Inspector of Police,
Vigilance and Anti Corruption,
Pudukkottai.

8.Ganesh

9.Muthu

10.Anbanandam

11.Peter

12.Tamil Selvi

13.Manimekalai

14.Karthika

15.Sumathi

16.Uma Makeswari

17.Kavitha

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari to call for the records in TDP Case No.6M/2023 dated on 31.07.2023 pending on the file of

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the Tribunal for Disciplinary Proceedings, Trichy and quash the same as illegal and arbitrary.

For Petitioners : Mr.Isaac Mohanlal
Senior Counsel
for Mr.P.Ganapathi Subramanian
For Respondents : Mr.T.Amjad Khan, - for R1 to R7
Government Advocate

COMMON ORDER

The petitioners have filed these Writ Petitions seeking a Writ of Certiorari to call for the records pertaining the impugned disciplinary proceedings in above TDP cases, dated 31.07.2023 pending on the file of the Tribunal for Disciplinary Proceedings and quash the same.

2. Heard the learned counsel on either side and perused the materials available on record.



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3. The petitioners, who were under suspension and attained their age of superannuation already, have filed these writ petitions seeking a Writ of Certiorari to call for the records pertaining the impugned disciplinary proceedings in above TDP cases, dated 31.07.2023 pending on the file of the Tribunal for Disciplinary Proceedings and quash the same.

4. The petitioners are the Selection Committee members of the Committee constituted for recruiting Noon Meal Organizer in the year 2017. However, some malpractices alleged to have occurred in the selection process and due to which, an FIR has also been registered against them and the then P.A to Collector in Crime No.2 of 2020 by Vigilance and Anti Corruption, Pudukkottai. But, after investigation, the file was closed stating that there is no prima facie material available for prosecuting the accused. So far as these petitioners are concerned, they have also arrayed as accused in the FIR.



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5. The petitioners' grievance is that even though there is no material against them, they have been given with a charge memo, dated 31.07.2023 by alleging that they have selected ineligible candidates by violating the G.O(Ms).No.163, Social Welfare Noon Meal Scheme Department dated 18.08.2010.

6. One of the condition for appointment to the post of Noon Meal Organizer is that the appointee has to reside within the radius of 3 kms from the work place and that forms a part of the Government Order in G.O(Ms)No.163, dated 18.08.2010. So the impugned charge has been issued against the petitioners on the ground that the said Government order has been violated and persons who have not been residing within the radius of 3 kms. have been recommended by the Selection Committee, which comprised of the petitioners.



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7. Mr.Isaac Mohanlal, learned Senior Counsel for the petitioners submitted that the Selection Committee has submitted its report to the District Collector on 22.02.2017. Even though the above Government Order was of the date 18.08.2010, it was quashed pursuant to the order passed by this Court in W.P. (MD)Nos.18443 of 2014 etc., batch dated 22.03.2017. However, the Government Order was once again given validated pursuant to the order passed in W.A.No.792 of 2012, dated 22.03.2017.

8. In the interregnum, the rule which indicated that the appointees should reside within the 3 kms., radius was not in force cannot be charged on that ground. In the Selection Committee report, there are certain over-writings are seen to have been made. It is obvious that when the selection report was filed, there cannot be any overwriting and all those overwriting could have been occurred in the Collector's office, to which the argument was submitted. But the overwritten content has got an unique in



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character. All those overwritten numbers were predominantly above 3 kms. This would only confirm that during the verification process done by the appointing authority, he would have found out that the real persons who reside beyond 3 kms. have been selected.

9. Whatever may be the case, at the time when the selection report was filed, the rule mandating the residence within 3 kms. was not in force. There be a possibility presuming doubts against the petitioners that they could have abused their power and given their report by suitably altering the distance of the appointees. However, such action if any, on the part of the petitioners is of no consequence because the Government Order which mandated such distance itself was not in force during the relevant point of time, even though it was revived at a later point of time. No doubt, at the time when the selection was made, the Government Order was given revival in pursuant to the order passed in the writ appeal on 22.03.2017.



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10. Once the petitioners who have formed part of the selection committee have filed the report they became functus officio and thereafter it is within the power of the appointing authority either to issue appointment order to the selectees or to cross check the genuineness of the information given by the selectees or the selection report and pass appropriate orders.

11. The Appointing Authority has also found it fit to issue the appointment orders to all those persons who are found in the selection list and it is learnt that all those persons who have been selected are still working in the department.

12. There is no quarrel on the point that the Department of Vigilance and Anti Corruption has not given any adverse report against the petitioners.



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13. The charge memo issued through the proceedings of the Tribunal for Disciplinary Proceedings, Trichirappalli, dated 31.07.2023, relates to certain alleged misconduct. The said charges are in the initial stage and it is for the petitioners to submit their explanation and participate in the enquiry process.

14. In normal settings, it is correct to state that the delinquents against whom the Tribunal issued charges have to submit themselves to the jurisdiction of the Tribunal and make their submissions. It is for the Tribunal to pass appropriate orders, after conducting an enquiry

15. It is submitted by the petitioners that the charge itself is illegal. The charges purely based on the applicability of G.O(Ms).No.163, dated 18.08.2010 to the specific instance of the Selection Committee report. Admittedly, the petitioners have given with a clear chit by the Department of Vigilance and Anti



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Corruption and hence, there is no criminal proceedings pending against the petitioner.

16. However, the petitioners have impleaded some private respondents 10 to 16, who in my opinion are not necessary parties and hence, no notice is ordered to be issued against them.

17. It is learnt that the petitioners have impleaded all those persons as party to the proceedings because they were also involved in the selection process and against whom no charges have been made. Even for the submission that the charges have been issued in a partial manner only against these petitioners, the private respondents 10 to 16 need not be the parties to the proceedings.

18. The respondents did not deny the fact that the above Government order was quashed as on the date when the Selection Committee Report was filed. The Selection Committee members



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cannot ascertain the genuineness of the statement of the candidates on the radius of the distance of their residence if the appointing authority deems it fit to verify the above particulars, the said act could have been done by him. Whichever way the matter is viewed, the petitioners cannot have any role to ascertain the genuineness of the statement about distance of the residences of the petitioners from their work place.

19. Since the very charge, dated 31.07.2023 has been issued only on the basis of G.O(Ms).No.163 dated 18.08.2010, which was not in force on the date when the Selection Committee had conducted the interview and prepared the Selection Committee Report, I feel the petitioners have made out a case that the charge itself is illegal. No fruitful outcome would come out by subjecting the petitioners to disciplinary proceedings, when the charge itself is not legal.



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20. Since the charge stands purely on technicalities and there is no factual matrix involved and even the technicalities touch upon G.O.(MS)No.163, dated 18.08.2010, which was quashed on the date when the Selection Committee Report was filed, I feel the charge itself is baseless and it has been issued on a thorough misconception of the validity and applicability of the Government Order in G.O(Ms).No.163, dated 18.08.2010, for the relevant period.

21. It is learnt that the petitioners have either reached the date of superannuation or they are about to retire very shortly. Only in view of the impugned charges, dated 31.07.2023, some of the petitioners are not allowed to retire.

22. In view of the above stated reasons, these Writ Petitions are allowed and the impugned charges/disciplinary proceedings, dated 31.07.2023 pending on the file of the Tribunal



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for Disciplinary Proceedings are set aside. No costs. Consequently,
connected miscellaneous petitions are closed.

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



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To

- 1.The Principal Secretary to Government of Tamil Nadu,
Department of School Education,
Secretariat, Chennai.
- 2.The Principal Secretary to Government of Tamil Nadu,
Department of Rural Development of Panchayat Raj,
Secretariat, Sheena.
- 3.The Principal Secretary of Government of Tamilnadu,
Department of Health and Family Member,
Secretariat, Chennai.
- 4.The Director of Vigilance of Anti Corruption,
Chennai.
- 5.The Director of Social Welfare,
Chennai.
- 6.The District Collector
Pudukkottai.
- 7.The Deputy Superintendent of Police,
Vigilance and Anti Corruption,
Pudukkottai.
- 8.The Inspector of Police,
Vigilance and Anti Corruption,
Pudukkottai.



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R.N.MANJULA, J.

RM

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