

WP(MD). No.20455 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date : 06/03/2025

CORAM :

**THE HONOURABLE MRS.JUSTICE J.NISHA BANU
AND
THE HONOURABLE MRS.JUSTICE S.SRIMATHY**

WP(MD)No.20455 of 2023

Hajee. K.E. Mudhammad Ismayil

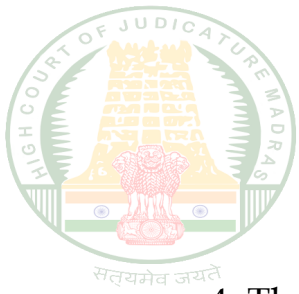
... Petitioner

v.

1. State of Tamil Nadu,
The Principal Secretary,
Municipal Administration and Water Supply Department,
State Secretariat,
St.George Fort,
Chennai 600 009.

2. The Director,
Directorate of Vigilance and Anti Corruption (DVAC)
No.293, M.K.N.Road,
Alandur,
Chennai 600 016..

3. The Director,
Office of the Director of Municipal Administration,
M.R.C.Nagar, Santhom Road,
Raja Annamalaipuram,
Chennai 28.



WP(MD). No.20455 of 2023

4. The Commissioner,
Madurai Corporation,
Aringar Anna Maligai,
Madurai 625 002.

5. The Deputy Commissioner / Vigilance Officer
Cum Enquiry Officer,
Madurai Corporation,
Aringar Anna Maligai,
Madurai 625 002.

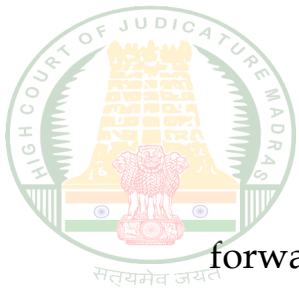
6. Sivapackiam.R,
Law Officer,
Madurai Corporation,
Madurai 625 002.

7. Selvakumar.V,
Superintendent,
Madurai Corporation Zone No.4,
Madurai 625 002.

8. Balasubramanian.V,
Account Officer,
Madurai Corporation Zone No.3,
Madurai 625 002.

... Respondents

PRAYER :- Writ Petition filed under Article 226 of Constitution of India, praying this Court to issue of Writ of Mandamus to direct the respondent No.5 to complete the enquiry and take action on the basis of the petitioner representation dated 01.06.2022



WP(MD). No.20455 of 2023

forwarded by the respondent No.3 through communication letter
no.10814/2022 MCA-1 dated 25.07.2022 within the time stipulated
by this Court.

For Petitioner : Mr.R.Alagumani

For Respondents : Mr.J.Ashok for R1 to R3
Additional Government Pleader
Mr.S.Vinayak for R4&R5
Mr.K.Govindarajan for R6
for Mr.T.Antony Arulraj
Mr.S.Paul Murugesh for R8

ORDER

(Order of the Court was made by J.NISHA BANU, J.)

This writ petition has been filed for a Mandamus to
direct the respondent No.5 to complete the enquiry and take action
on the basis of the petitioner's representation dated 01.06.2022
forwarded by the respondent No.3 through communication letter
No.10814/2022 MCA-1 dated 25.07.2022 within a time frame.

2. The learned counsel appearing for the petitioner would
state that originally, the 6th respondent/Tmt.Sivapackiam was



WP(MD). No.20455 of 2023

appointed as a Female Nursing Orderly in the Public Health Department of the Madurai Corporation in 1993. Later, she resigned the said post in 1994 and joined as Typist in the General Service Department of the Madurai Corporation. Thereafter, she was promoted as Assistant and then Superintendent. Pursuant to creation of the post of Law Officer vide G.O.No.76, Municipal Administration and Water Supply Department, dated 12.05.1998, she was appointed as Law Officer on 12.01.2015. He would further state that the 6th respondent has completed LLB three years degree course from Al Ameen Law College at Bangalore, Karnataka State from 1997 to 2000, without attending the college regularly and without even obtaining permission from his employer namely, Madurai Corporation and therefore she is not entitled to hold the post of Law Officer. Hence, the petitioner has filed this writ petition for the abovesaid relief.

3. The learned counsel appearing for the 6th respondent would state that the present writ petition is the fourth round of



WP(MD). No.20455 of 2023

WEB COPY

litigation filed by the petitioner herein and despite unsuccessful attempts on thrice before this Court by filing W.P(MD)Nos.20251 of 2015, 4095 of 2019 and 15881 of 2021, the present writ petition has been filed. In the first writ petition namely, W.P(MD)No. 20251 of 2015, the Madurai Corporation has filed counter stating that though the 6th respondent acquired LLB without getting permission, it was condoned and ratified by the Corporation and considering the fact that thereafter, the 6th respondent acquired MCA and LLM after obtaining permission from the Corporation, she was appointed as Law Officer. The Writ Court also referring to the service rules of the Corporation, held that the candidate who is having law degree or equivalent degree would be eligible for appointment as Law Officer and there is no mention in the service rules that the candidate should have possessed law degree by regular course. Accordingly, the Writ Court dismissed the first writ petition.



WP(MD). No.20455 of 2023

WEB COPY

4. The learned counsel for the 6th respondent further submitted that the second writ petition namely, W.P(MD)No.4095 of 2019 filed on the same prayer, was dismissed by the Division Bench, holding that it would amount to reviewing the earlier decision of the Division Bench. The third writ petition namely, W.P(MD)No.15881 of 2021 was filed by the very same writ petitioner herein, seeking issuance of a Writ of Quo Warranto challenging the appointment of the 6th respondent herein as Law Officer and the Writ Court citing the orders passed in the earlier two writ petitions, dismissed the third writ petition. However, the very same person has now filed the present writ petition with different wordings of prayer seeking Mandamus. Thus, the learned counsel submits that the present writ petition is clearly an abuse of process of law and the writ petitioner is making mockery of the earlier three orders passed by this Court. Hence, the learned counsel for the 6th respondent submits that the present writ petition should be dismissed with exemplary costs.



WP(MD). No.20455 of 2023

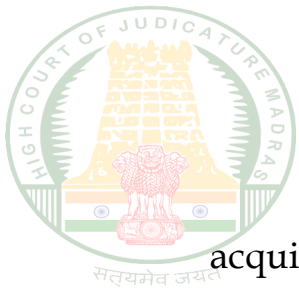
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5. The learned Additional Government Pleader appearing for the respondents 1 to 3 and the learned standing counsel for the 4th respondent / Madurai Corporation have reiterated the grounds raised in the earlier three litigations justifying the appointment of the 6th respondent as Law Officer and prayed for dismissal of the writ petition.

6. Heard both sides.

7. Though the learned counsel for the petitioner contended that the 6th respondent has completed LLB three years degree course without attending the college regularly and without obtaining permission from the Madurai Corporation and therefore she is not entitled to hold the post of Law Officer, it is the specific averment of the Madurai Corporation in their counter filed in the first writ petition namely, W.P(MD)No.20251 of 2015 that the LLB degree acquired by the 6th respondent without permission, was condoned by the Corporation and considering the fact that after

7/14

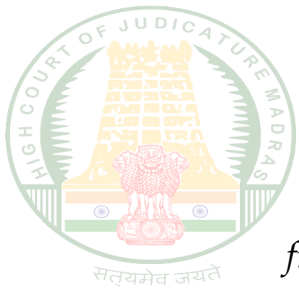


WP(MD). No.20455 of 2023

WEB COPY

acquiring LLB, she had acquired MCA and LLM by obtaining permission from the Corporation and she had an impeccable record of service and that there was no eligible candidate available in the feeder category to hold the post of Law Officer except the 6th respondent, the Madurai Corporation had appointed the 6th respondent as Law Officer. Therefore, the said contention of the petitioner regarding not obtaining prior permission for LLB course is rejected. As far as the qualification to hold the post of Law Officer in the Madurai Corporation, the Writ Court in its order dated 09.07.2017 passed in first writ petition namely, W.P(MD)No20251 of 2025 filed by one S.Muthukumar, in which, one of us (**J.NISHA BANU, J**) was a party, has held as follows:

"12. The appointment of the fifth respondent is under challenge primarily on the ground that the candidate ought to have taken the Law Degree by undergoing regular course. The petitioner would be correct in his contention, in case there is a stipulation in the Service Rules that for promotion, the candidate must have have a degree in Law, enabling her to practise the profession of Law However, that is not the rule



WP(MD). No.20455 of 2023

WEB COPY

framed for appointment to the post of Law Officer in Madurai Corporation. The qualification very clearly indicates that the candidate must have a degree in Law or equivalent degree, meaning thereby, even a degree holder possessing equivalent degree would be eligible for appointment to the post of Law Officer. There is no mention anywhere that the candidate must have studied the Law Degree by undergoing a regular course and that he should be entitled to practise the profession of Law In the absence of any such stipulation, the petitioner cannot be heard to say that the fifth respondent was not eligible for appointment to the post of Law Officer.

13. The fifth respondent satisfied the eligibility criteria and as such, she was rightly appointed by the Madurai Corporation. We do not find any ground made out by the petitioner for issuing a writ and more particularly, a Writ of Quo Warranto."

8. The second writ petition namely, W.P(MD)No.4095 of 2019 was filed by one K.Karmegam, seeking to declare the law degree obtained by the 6th respondent herein as void and illegal. The Division Bench by order dated 11.11.2019, dismissed the writ



WP(MD). No.20455 of 2023

petition, holding that it would amount to reviewing the earlier order of the Division Bench. The relevant passage of the said judgment is extracted hereunder:

"5. The contentions advanced in the said writ petition is identical to that of what has been advanced before us on the ground that she could not have secured a full time LLB degree from a College in Karnataka, when she was full time employee of the Madurai Municipal Corporation. The Division Bench heard the matter and after elaborate discussion had dismissed the writ petition, vide order dated 09.08.2017 and declined to issue a Writ of Quo Warranto.

7. In the light of the comprehensive adjudication done by this Court in the earlier writ petition, which was a substantive litigation as a Writ of Quo Warranto was sought for and the Court having considered the submissions has dismissed the writ petition, we cannot on the same set of facts, which slightly differently worded prayer re-examine the matter, as it would amount to reviewing the earlier decision of the Division Bench. Hence, for that reason alone, the writ petition fails and the same is dismissed. No costs. Consequently, the connected miscellaneous petitions are also dismissed. "



WP(MD). No.20455 of 2023

9. The third writ petition was filed by the present petitioner in the year 2022 vide W.P(MD)No.15881 of 2021, seeking issuance of Writ of Quo Warranto challenging the appointment of the 6th respondent herein and this Court by order dated 21.07.2022, relying upon the earlier orders, dismissed the writ petition.

10. Reverting to the present case on hand, it is the second writ petition filed by the petitioner herein on the same cause of action, but differently worded. It is well settled that the second writ petition on the same cause of action is not maintainable as it is an abuse of process of the Court. Though the question of eligibility of the 6th respondent to hold the post of Law Officer was categorically answered by this Court way back in 2017 itself, by different wording of prayer, subsequent writ petitions were filed on the same set of facts. The said writ petitions were rightly dismissed by the Co-ordinate Division Benches affirming the appointment of the 6th respondent. We strongly deprecate the practice of filing writ petitions one after another on the same cause



WP(MD). No.20455 of 2023

of action. Thus, the present writ petition is liable to be dismissed with costs.

11. When we expressed our displeasure, the learned counsel for the petitioner sought permission of this Court to withdraw the writ petition. We see that the attitude of the petitioner filing petition one after another does not reflect bona fide. However, we allow the petitioner to withdraw this writ petition with a severe warning that in future, if such kind of writ petition is filed by the petitioner herein, heavy costs will be imposed on him.

12. With the above observation and warning, the writ petition is dismissed as withdrawn. No costs.

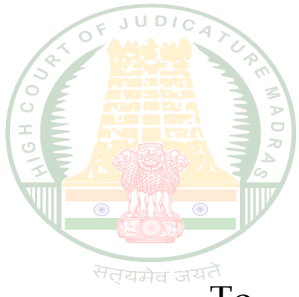
[J.N.B.,J]

[S.S.Y.,J]

06.03.2025

NCC : Yes/No
Index : Yes/No
BALA/RR

12/14



WP(MD). No.20455 of 2023

To

1. The Principal Secretary,
Municipal Administration and Water Supply Department,
St.George Fort, Chennai 600 009.

2. The Director,
Directorate of Vigilance and Anti Corruption (DVAC)
No.293, M.K.N.Road, Alandur, Chennai 600 016..

3. The Director,
Office of the Director of Municipal Administration,
M.R.C.Nagar, Santhom Road,
Raja Annamalaipuram, Chennai 28.

5. The Deputy Commissioner / Vigilance Officer
Cum Enquiry Officer,
Madurai Corporation, Aringar Anna Maligai,
Madurai 625 002.



WEB COPY



WP(MD). No.20455 of 2023

**J.NISHA BANU, J
AND
S.SRIMATHY, J.**

BALA/RR

**ORDER MADE IN
WP(MD) No.20455 of 2023
DATED : 06/03/2025**