

P.Lakshmi Vs. State

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Court : Chennai

Decided On : Mar-13-2014

Judge : The Hon'Ble Mr.Satish K.Agnihotri

Appellant : P.Lakshmi

Respondent : State

Judgement :

IN THE HIGH COURT OF JUDICATURE AT MADRAS Dated :

13. 03.2014 Coram The Honourable Mr.SATISH K. AGNIHOTRI, ACTING CHIEF JUSTICE and The Honourable Mr.Justice M.M.SUNDRESH Writ Petition No.25704 of 2013 and M.P.Nos.1 and 2 of 2013 1.Tmt.P.Lakshmi 2.I.Sumathi 3.V.Vijayakumari 4.P.Ilanthendral 5.T.Pazahatamilmaran .. Petitioners Vs. 1.State rep.by The Chief Secretary to the Government of Tamilnadu, Chennai 600 009 2.The Secretary to the Government of Tamil Nadu, Ministry of Local Administration Government of Tamilnadu, Chennai 600 009 3.The District Collector, Cuddalore District, 4.The Commissioner/Secretary of Appointment Committee, Nellikuppam Municipality, Nellikuppam, Cuddalore District, 5.The Chairman/Chairman of Appointment of Committee, Nellikuppam Municipality Nellikuppam, Cuddalore District, 6.The District Employment Officer, Cuddalore District, Cuddalore, 7.The Zonal Municipality Executive Committee, Chengalpet, Kancheepuram District, 8.The Executive Commissioner, Municipality Administrator, Ezhilagam, Chennai 600 005, 9.Shri.Selvi 10.Shri.Arul 11.Shri.A.Shanmugam 12.Selvi R.Pavithra

13.A.Babu, 14.M.Karunakaran 15.Sudhakar 16.Surendar Sha .. Respondents RR.15 and 16 are impleaded as per order dt.31.10.2013 in M.P.No.3 of 2013 Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of certiorari to call for the records in Form X58 dated 12.4.2013 on the file of 4th respondent and to quash the same. For Petitioner : Dr.G.Krishnamurthy For respondents : Mr.M.S.Ramesh, AGP for RR.1 to 3 and 6 Mr.N.Subramani for RR4 and 5 Mr.S.Arivazhagam for RR.9 and 11 to 14

ORDER

The petitioners herein are elected Councillors of the 3rd respondent Municipality. This writ petition has been filed as a public interest litigation challenging the proceedings of respondent No.4 dated 12.4.2013 by which the appointments have been made in favour of the private respondents herein.

2. It is the specific case of petitioners that the 1st petitioner has not been properly consulted even though she was the only elected member of the Committee. It is the further case of the petitioners that appointments have been made in favour of the private respondents herein. It is the further case of the petitioners that the appointments have been made by respondents No.4 and 5 in connivance with respondent No.6 on extraneous consideration. Based upon the said allegation, the present writ petition has been filed.

3. As rightly contended by the learned counsels appearing for respondents, the writ petition is not maintainable as there cannot be any public interest litigation pertaining to service matters.

4. The Honourable Apex Court in the case of Hari Bansh Lal Vs. Sahodar Prasad Mahto and others, (2010) 8 MLJ405 has held that a public interest litigation in service matters is not maintainable. The relevant portion in the said judgment reads as under: ".6. About maintainability of the Public Interest Litigation in service matters except for a writ of quo warranto, there are series of decisions of this Court laying down the principles to be followed. It is not seriously contended that the matter in issue is not a service matter. In fact, such objection was not raised and agitated before the High Court. Even otherwise, in view of the fact that the appellant herein was initially appointed and served in the State Electricity Board as

a Member in terms of Section 5(4) and from among the Members of the Board, considering the qualifications specified in Sub-section (4), the State Government, after getting a report from the vigilance department, appointed him as Chairman of the Board, it is impermissible to claim that the issue cannot be agitated under service jurisprudence. We have already pointed out that the person who approached the High Court by way of a Public Interest Litigation is not a competitor or eligible to be considered as a Member or Chairman of the Board but according to him, he is a Vidyut Shramik Leader. Either before the High Court or in this Court, he has not placed any material or highlighted on what way he is suitable and eligible for that post.

7. In *Dr.Duryodhan Sahu and Ors.v.Jitendra Kumar Mishra and Ors*, (1998) 7 SCC273 a three- Judge Bench of this Court held ".if public interest litigations at the instance of strangers are allowed to be entertained by the Tribunal, the very object of speedy disposal of service matters would get defeated".. In para 21, this Court reiterated as under: ".21. In the result, we answer the first question in the negative and hold that the Administrative Tribunal constituted under the Act cannot entertain a public interest litigation at the instance of a total stranger.".

8. In *Ashok Kumar Pandey v.State of W.B.*, (2004) 3 SCC349 this Court held thus: ".16. As noted supra, a time has come to weed out the petitions, which though titled as public interest litigations are in essence something else. It is shocking to note that courts are flooded with a large number of so-called public interest litigations where even a minuscule percentage can legitimately be called public interest litigations. Though the parameters of public interest litigation have been indicated by this Court in a large number of cases, yet unmindful of the real intentions and objectives, courts are entertaining such petitions and wasting valuable judicial time which, as noted above, could be otherwise utilized for disposal of genuine cases. Though in *Duryodhan Sahu (Dr)v.Jitendra Kumar Mishra* this Court held that in service matters PILs should not be entertained, the inflow of so-called PILs involving service matters continues unabated in the courts and strangely are entertained. The least the High Courts could do is to throw them out on the basis of the said decision. The other interesting aspect is that in the PILs, official documents are being annexed without even indicating as to how the

petitioner came to possess them. In one case, it was noticed that an interesting answer was given as to its possession. It was stated that a packet was lying on the road and when out of curiosity the petitioner opened it, he found copies of the official documents. Whenever such frivolous pleas are taken to explain possession, the courts should do well not only to dismiss the petitions but also to impose exemplary costs. It would be desirable for the courts to filter out the frivolous petitions and dismiss them with costs as aforesaid so that the message goes in the right direction that petitions filed with oblique motive do not have the approval of the courts.

9. The same principles have been reiterated in the subsequent decisions, namely, *Dr. B. Singh v. Union of India and Ors.* (2004) 3 SCC 363, *Dattaraj Nathuji Thaware v. State of Maharashtra and Ors.*, (2005) 1 SCC 590 and *Gurpal Singh v. State of Punjab and Ors.*, (2005) 5 SCC 136. The above principles make it clear that except for a writ of quo warranto, Public Interest Litigation is not maintainable in service matters."

5. We have also perused the affidavit filed in support of the writ petition. There is absolutely no material in support of the allegations made. It is also seen from the counter affidavit filed by respondent No.6 that the private respondents have been appointed in pursuance to their candidature being sponsored through Employment Exchange. They have also joined their duty and working as of now. Therefore, even on merits we do not find any material in support of the petitioner.

6. Accordingly, the writ petition is dismissed. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed. (S.K.A., A.C.J.) (M.M.S., J.) 13.03.2014 Index:Yes Internet:yes usk To 1. The Chief Secretary to the Government of Tamilnadu, Chennai 600 009 2. The Secretary to the Government of Tamil Nadu, Ministry of Local Administration Government of Tamilnadu, Chennai 600 009 3. The District Collector, Cuddalore District, 4. The Commissioner/Secretary of Appointment Committee, Nellikuppam Municipality, Nellikuppam, Cuddalore District, 5. The Chairman/Chairman of Appointment of Committee, Nellikuppam Municipality Nellikuppam, Cuddalore District, 5. The District Employment Officer, Cuddalore District, Cuddalore, 6. The

Zonal Municipality Executive Committee, Chengalpet, Kancheepuram District,
7.The Executive Commissioner, Municipality Administrator, Ezhilagam, Chennai
600 005, The Hon'ble the Acting Chief Justice and M.M.Sundresh,J.

usk W.P. No.25704 of 2013 13.03.2014

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