

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26-10-2015

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

WRIT PETITION No.34066 of 2015

and

M.P.No.1 of 2015

E.Ezeelarasi .. Petitioner

vs

1. Directorate of School Education
Government of Puducherry
Perunthalaivar Kamarajar
Centenary Educational Complex
100 Feet Road, Anna Nagar
Puducherry 605 005
2. The District Collector
Revenue Complex, Saram
Puducherry 605 013
3. The Tahsildar
Taluk Office
Bahour, Puducherry
4. The Village Administrative Officer
Pandachozhanallur, Nettapakkam
Puducherry 605 106 .. Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of a writ of mandamus directing the respondents 3 and 4 to forthwith issue the nativity certificate to the petitioner for 2015 based on the Nativity Certificate of 2006.

For Petitioner : Mr.V.Prakash
Senior Counsel
for Mr.K.Sudalaikannu

For Respondents : Mrs.N.Mala
Additional Government Pleader
(Pondy)

ORDER

By consent, the writ petition itself is taken up for final disposal.

2. The petitioner would state that her father Thiru Ellappan is working as a Worker in a Spinning Mill at Thiruvandarkoil and is hailing from Kalmandapam, Puducherry and her mother is also hailing from Puducherry and they got married

and are all along residing at Door No.57, Main Road, Kalmandapam, Nettapakkam, Puducherry, and would further aver that she was born to them on 12.2.1988, at the Government Hospital, Nettapakkam, Puducherry and so also, her younger brother as well as her younger sister and all of them are natives of Puducherry since birth.

3.It is further averred by the petitioner that she got married to one Mr.K.Durairaj on 23.1.2014, and he hails from Kalinjikuppam, Villupuram District in Tamil Nadu and she in response to the Recruitment Notification dated 26.5.2015, issued by the Directorate of School Education of Government of Puducherry, has applied for the post of Primary School Teacher and was selected vide proceedings of the first respondent dated 12.10.2015, and her name appears in Serial No.69 and she went for certificate verification and also produced her Nativity Certificate issued in the year 2006; however, the first respondent insisted her to produce the Nativity Certificate issued after her marriage, but, without any written communication and in this regard, she has also made repeated representations to the fourth respondent on 8.6.2015, 15.6.2015, 13.10.2015 and 20.10.2015, for issuance of a fresh Nativity Certificate followed by a reminder dated 22.10.2015, and however, no orders have been passed.

4.The apprehension expressed by the petitioner, is that before considering her application for issuance of a fresh Nativity Certificate, her provisional selection for appointment to the post of Primary School Teacher - 2015 is likely to be cancelled and hence, she came forward to file this writ petition.

5.Mr.V.Prakash, learned Senior Counsel appearing for the petitioner, would submit that the act of the first respondent clearly violates Article 16(2) of the Constitution of India and would further submit that admittedly, the petitioner has submitted an application for issuance of a fresh Nativity Certificate and it is pending consideration and despite the same, her selection to the post of Primary School Teacher is likely to be cancelled and hence, she is constrained to approach this Court by filing this writ petition.

6.Per contra, Mrs.N.Mala, learned Additional Government Pleader (Pondy), who accepts notice on behalf of the respondents, would submit that the recruitment of the petitioner to the post of Primary School Teacher is only provisional subject to certain conditions and unless and until the petitioner produces her Nativity Certificate issued after her marriage, her candidature cannot be considered.

7.This Court has carefully considered the rival submissions and also perused the materials placed before it.

8. Admittedly, the petitioner has participated in the selection process and was successful. As per the Notification of the first respondent dated 12.10.2015, the name of the

petitioner finds place in Serial No.69. The relevant portion of the Notification of the first respondent dated 12.10.2015, reads as under:-

- i. The selection is purely provisional and subject to the outcome of the O.A. No.653/2015 and W.P. No.20706/2015 pending before the Hon'ble CAT and Hon'ble High Court, Madras, respectively.
- ii. The provisionally selected candidates shall produce all the original certificates at the time of certificate verification for which the date and time will be intimated separately.
- iii. Provisional selection of those who fail to produce the required certificates at the time of certificate verification will automatically stand cancelled without any notice.
- iv. Candidates claiming reservation under SC category should belong to a caste which is recognized as Scheduled Caste under "The Constitution of India (Pondicherry) Scheduled Castes Order, 1964", dated 05.03.1964 read with "The Constitution of India (Scheduled Caste) Orders (Second Amendment) Act, 2002 (Central Act 61 of 2002)".
- v. This provisional selection has been made purely on the basis of the information provided by the individuals in their applications. If the information provided by them is found to be false or not correct at the time of certificate verification, their selection will automatically stand cancelled without any notice.
- vi. This provisional selection will not confer any right on them to claim appointment as a matter of right."

9. Though the selection of the petitioner is provisional, the fact remains that she has applied for Nativity Certificate after her marriage, and it is still under process and unless and until the said application is disposed of and the petitioner is communicated of the decision taken, this Court is of the view that her provisional selection to the post of Primary School Teacher cannot be cancelled.

10. In the result, the writ petition is disposed of and the third respondent is directed to process the application submitted by the petitioner for issuance of fresh Nativity Certificate as expeditiously as possible and pass orders thereon within a period of four weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioner and till such time, the provisional selection of the petitioner to the post of Primary School Teacher, shall not be

cancelled by the first respondent. No costs. Consequently,
connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To:

- 1.The Director of School Education
Government of Puducherry
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Taluk Office
Bahour, Puducherry
- 4.The Village Administrative Officer
Pandachozhanallur, Nettapakkam
Puducherry 605 106

+1 cc to Government Pleader, Puducherry, sr.58128
+1 cc to Mr.K.Sudalaikannu, Advocate (sr.58743) 29/10/2015

nsv

W.P.No.34066 of 2015

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