



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 11.07.2016

CORAM :

THE HONOURABLE MR.JUSTICE T.RAJA

Writ Petition (MD) No.5312 of 2016

and

W.M.P (MD) Nos.4763 and 8135 of 2016

Chandrakala

...Petitioner

Vs.

1.The District Collector,
Theni District.

2.The Commissioner,
Periyakulam Panchayat Union,
Periyakulam.

3.Viji

...Respondents

Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the 1st respondent in Na.Ka.No.209/2016, OO.Va.11 dated 25.02.2016 proceedings and quash the same and consequently direct the 1st respondent to appoint the petitioner as Noon Meal Organizer at CSI primary School, Erumalainayakanpatti, Theni District.

For Petitioner	:	No appearance
For Respondents	1&2	: Mr.T.S.Mohammed Mohideen Additional Government Pleader.
For 3 rd Respondent	:	Mrs.S.Viji, Party in Person

ORDER

This writ petition has been filed by Chandrakala, W/o.P.Pradeep Durai, challenging the proceeding issued by the District Collector, Theni District appointing the third respondent as Noon Meal Organiser.

2.When the matter is called, none appears for the petitioner. However, as per the notification issued by this Court on 04.07.2016 which is given as under:

"It is informed that the cases listed in the daily cause lit will be taken up for hearing without any adjournment. If there is no representation, such cases will be decided on merits."

this matter is taken up for disposal on merits. The third respondent appeared in person and the learned Additional Government Pleader for the respondents assisted this Court.

3.The petitioner having completed +2 got married and also given birth to two children. While so the first respondent issued a notification dated 06.01.2016 inviting applications from the eligible candidates to fill up the post of Noon Meal Organisers and Noon Meal Assistants. The petitioner has applied for the said post enclosing the supportive documents which were sought for by the second respondent. On



receipt of the petitioner's application, the second respondent issued a call letter on 27.01.2016 asking her to appear before the second respondent on 03.02.2016. Pursuant to the said call letter, the petitioner participated in the interview held on 03.02.2016. However, the third respondent was alone selected and appointed to the said post by the first respondent. Challenging the same, the present writ petition has been filed on the following three grounds; that the appointment order issued in favour of the third respondent is against G.O.Ms.No.72, Social Welfare and Noon Meal Department, dated 16.03.2010; as per the norms, the petitioner is residing in the very same residing place namely, Erumalainayakanpatti whereas the third respondent is residing in Vel Nagar, Endapuli Village Panchayat, which is situate 8 kms away from the vacant place namely Erumalainayakanpatti and no communal roster has been followed in the selection process.

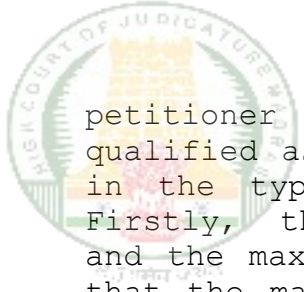
4.While entertaining the writ petition, this Court granted an order of interim stay on 16.03.2016. Objecting the grant of interim stay, the third respondent has filed a vacate stay petition along with a counter affidavit and the second respondent has also filed a counter affidavit.

5.Learned Additional Government Pleader appearing for the respondents 1 and 2 would submit that the Government Order in G.O.Ms.No.4, Social Welfare and Noon Meal Department, dated 06.01.2011 mandates every school to follow a communal roster but so far as the minority educational institutions are concerned, the said Government Order is exempted. Since the three schools namely, C.S.I. Primary School, Erumalainayakanpatti, Al-ameen Primary School, Pomminayakkanpatti, M.E.L.I.M. Primary School, Lakshmipuram are belonging to minority educational institutions, the application of the above Government Order No.72, as contended by the petitioner is inapplicable to them.

6.Adding further, he would contend that the petitioner's date of birth as mentioned in her application shows as 01.06.1995 and if the condition mentioned in the notification prescribing the age qualification namely 21 to 40 years, is applied to the case of the petitioner, as on 01.01.2016, the petitioner ought to have completed 21 years but in the present case, she is ineligible because she has not completed 21 years as on 01.01.2016. Therefore, she is ineligible and not entitled to challenge the appointment made in favour of the third respondent.

7.Adding further, he would contend that the first respondent has rightly followed the rules and regulations considering the fact that the third respondent has passed 10th standard, belonging to MBC and aged about 38 years, while appointing her in the said post. On this score also, her appointment cannot be challenged, learned Additional Government Pleader pleaded.

8.Adding further he would submit that when the petitioner has not even challenged the notification dated 06.01.2016 exempting the aforementioned three schools from application of Government Order in G.O.Ms.No.4, Social Welfare and Noon Meal Department, dated 06.01.2011, the challenge made to the writ petition is unsustainable in law for a simple reason that on the crucial date, namely, 01.01.2016, the



petitioner should have completed 21 years, therefore, she is not even qualified as per her date of birth shown in the mark statement enclosed in the typed set of papers. I fully agree with these submissions. Firstly, the notification prescribes the minimum age qualification as 21 and the maximum age as 40 years as on 01.06.2016. It is not in dispute that the mark statement of the petitioner enclosed in the typed set of papers clearly shows that her date of birth is 01.06.1995. If her date of birth is 01.06.1995, then she has not completed 21 years as on 01.06.2016, therefore, the petitioner is disqualified as she has not attained the minimum age qualification. Further, in the notification, it is categorically mentioned that as per G.O.Ms.No.4, Social Welfare and Noon Meal Department, dated 06.01.2011, communal roster will not be followed in respect of minority educational institutions namely, C.S.I.Primary School, Erumalainayakanpatti, Al-ameen Primary School, Pomminayakkanpatti, M.E.L.I.M. Primary School, Lakshmipuram, ironically the notification has not been challenged in the manner known to law.

9.For the aforementioned reasons, the writ petition fails and accordingly, it is dismissed. No costs. Consequently, W.M.P(MD)Nos.4763 and 8135 of 2016 are closed.

Sd/-
Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar(CS)
Madurai Bench of Madras High Court,
Madurai-23.

To

1.The District Collector, Theni District.

2.The Commissioner, Periyakulam Panchayat Union, Periyakulam.

+1cc to M/s.SO.Paramasivam, Advocate in SR.36255

+1cc to M/s.J.Balameenakshi, Advocate in SR.35564

+1cc to M/s.T.S.Mohameed Mohideen, Advocate in SR.35576

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sms

PBK/KBM/SAR-II 20/07/2016 ::3P-6C::