



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.12.2016

CORAM:

THE HONOURABLE MR. JUSTICE R.SURESH KUMAR

W.P. (MD) No.7888 of 2013

and

MP (MD) .1 AND 2 OF 2013

WEB COPY

Vanitha

...Petitioner

Vs.

1.The District Collector,
Ramanathapuram District
Ramanathapuram.

2.Subburamu

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.W1/21457/2012 dated 09.08.2012 and quash the same and consequently direct the 1st respondent to appoint the petitioner in the place of the 2nd respondent within a time frame fixed by this Court.

For Petitioner : Mr.B.S.Meltiue
For Respondents : Mr.V.Muruganantham for R1
Addl. Government Pleader
Mr.R.Pon Karthikeyan for R2

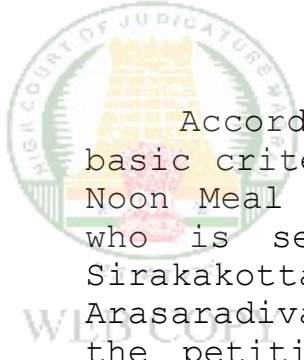
ORDER

The prayer in the writ petition is for a writ of Certiorarified Mandamus to call for the records pertaining to the impugned order passed by the 1st respondent in Na.Ka.No.W1/21457/2012 dated 09.08.2012 and quash the same and consequently direct the 1st respondent to appoint the petitioner in the place of the 2nd respondent within a time frame fixed by this Court.

2.The short facts for filing this writ petition is as follows:

The petitioner and the 2nd respondent were called for interview by the 1st respondent for the appointment to the post of Noon Meal Organiser at Nedungurichi Noon Meal Centre within the Panchayat Union of Nainarkoil at Ramanathapuram District. Pursuant to the said call letters, both the petitioner as well as the 2nd respondent attended the interview. Ultimately, the 2nd respondent was selected and appointed vide impugned order dated 09.08.2012. Challenging the same, the petitioner has come out with this writ petition in the year 2013.

<https://hcservices.courts.gov.in/hcsportal> 3. The petitioner has laid this writ petition on two major grounds:



According to the petitioner, the 1st ground is that one of the basic criteria for consideration of appointment to the post of the Noon Meal Organiser is the distance of residence of the person, who is selected. The petitioner herein is the resident of Sirakakottai and the 2nd respondent is the resident of Arasaradivandal. According to the petitioner, the place, where the petitioner belongs to is just one kilometre away from the Centre at Nedungurichi, whereas, the said Arasaradivandal is a place, where the 2nd respondent resides, is 8 kilometres from the Noon Meal Centre. In support of the said claim, the petitioner had produced a ration card, which stands in the name of the husband of the 2nd respondent. According to which, the residential address shown in the ration card is Arasaradivandal, Paramakudi Taluk, Ramanathapuram District. Therefore, the petitioner contends that based on the said ration card, the residence should have been considered for the 2nd respondent only as Arasaradivandal, since the same is 8 kilometres away from the Noon Meal Centre, she should not have been appointed and instead, the petitioner ought to have been appointed, as she belongs to the village, which is just one kilometre away from the Noon Meal Centre.

3.1. The 2nd ground, according to the petitioner, is the stand of the respondents that the 2nd respondent had been considered for appointment, apart from other criteria that the 2nd respondent is the disabled person, as the disability was fixed at 40% and therefore, she was considered for selection, is also out of the eligibility criteria fixed in this regard by the Government Orders. On these two grounds, the petitioner has challenged the impugned order.

4. Heard the learned counsel for the petitioner, the learned Additional Government Pleader for the 1st respondent and the learned counsel for the 2nd respondent.

5. The learned counsel for the petitioner, by relying upon the ration card stands in the name of the 2nd respondent's husband showing the address as Arasaradivandal and yet another ration card produced by the 2nd respondent in the typed set of papers, which stands in the name of the mother-in-law of the 2nd respondent showing the residence of the 2nd respondent as Kangaikondan, would contend that at the same point of time, one cannot have two ration cards and therefore, by using the second one, which, according to the petitioner is a bogus or a fake one, the 2nd respondent was managed to garner the job of Noon Meal Organiser at Nedungurichi Centre and therefore, the impugned order cannot be sustained, as the very appointment obtained by the 2nd respondent itself is illegal and the same cannot be cured at any point of time.

<https://hcservices.ecourts.gov.in/hcservices/>

6. Per contra, the learned Additional Government Pleader for the official respondents would contend that the Noon Meal



Organisers are appointed from time to time based on the guidelines issued by the Government in relevant Government orders and the latest Government Order governing the appointment is G.O.Ms.No.163 Social Welfare and Noon Meal Scheme Department dated 18.08.2010, whereby the District is considered to be the unit for the purpose of Rule of reservation and accordingly, the applications were called for from eligible persons and both the petitioner as well as the 2nd respondent had applied, based on the eligibility criteria, as has been fixed in the said Government Order. The 2nd respondent was selected and appointed through the impugned order.

7. The learned Government Pleader would further contend that though one of the conditions mentioned as other qualifications in the said Government Order that the distance between the Centre, where the appointment is made and the place of residence of the person to be appointed must be within 3 kilometres, in this case, even the said criteria has been verified and the same has been fulfilled by the 2nd respondent. In this regard, the learned Additional Government Pleader would rely upon the very impugned order itself, where the appointment was given to the 2nd respondent as a Noon Meal Organiser at Panchayat Union Primary School at Nedungurichi within the Panchayat Union Limit of Nainarkoil and the address shown by the appointee, namely, the 2nd respondent, is S.Subburamu, W/o.Sethurajan, Middle Street, Kangaikondan Post. Therefore, the learned Additional Government Pleader submits that the 2nd respondent was considered as the resident of Kangaikondan, for which, she has produced the ration card and the said Kangaikondan village is within three kilometres radius of the Noon Meal Centre at Nedungurichi. Apart from that the 2nd respondent has passed 10th standard; she belongs to Backward Class Community and the said post at Nedungurichi was reserved for Backward Community people and also the 2nd respondent is physically disabled person and she was 38 years at the time of appointment. Considering all these aspects only, the appointment was given. Therefore, there is no violation of any Government Order or norms in making the said appointment to the 2nd respondent. Therefore, the learned Additional Government Pleader submits that the writ petition is liable to be dismissed.

8. The learned counsel for the 2nd respondent would contend that the ration card, which was heavily relied upon by the petitioner, of course, stands in the name of the 2nd respondent's husband at Arasaradivandal, was the earlier residence of the 2nd respondent and thereafter, the residence of the 2nd respondent was shifted to matrimonial Home along with her husband and mother-in-law at Kangaikondan, where the ration card in the name of the mother-in-law of the 2nd respondent, including the 2nd respondent, had been obtained and the said ration card is the actual ration card of the 2nd respondent and the same was produced before the 1st respondent at the time of interview and even at the time of making the application, the said ration card alone was shown as a proof



of residence and only considering all these aspects, the appointment was made.

9. The learned counsel for the 2nd respondent would also contend that the said ration card at Arasaradivandal Village had been cancelled on 16.08.2012 itself and in spite of the said factor, the petitioner had come out with this writ petition in the year 2013, knowing fully well that the 2nd respondent was selected only based on her residence at Kangaikondan and therefore, the writ petition deserves to be dismissed.

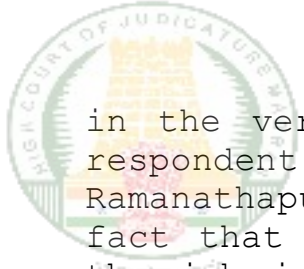
10. This Court have considered the rival submissions made by the learned counsel for the parties and the materials placed before this Court for perusal.

11. The only controversy raised in this writ petition is that whether the 2nd respondent was entitled to get the job of Noon Meal Organiser at Nedungurichi Village and the appointment, as has been made vide impugned order, is in consonance with the relevant Government Order and other relevant eligibility criteria fixed by the Government from time to time. In this regard, the learned counsel for the petitioner, as referred to above, heavily relied upon the ration card of the 2nd respondent at Arasaradivandal. According to him, the said ration card is her original ration card and the one submitted by the 2nd respondent, as if she was residing at Kangaikondan, is the another one or a bogus one and therefore, based on which, the appointment that had been given to the 2nd respondent is illegal and improper.

12. The learned counsel would also contend that one person cannot have two ration cards at a time and only after getting job, the earlier ration card at Arasaradivandal was cancelled on 16.08.2012. This itself shows that the 2nd respondent had, for the purpose of getting the job, obtained the ration card at Kangaikondan. But the fact remains that the 2nd respondent had not been the resident of the Kangaikondan Village at any point of time. If the 2nd respondent had not been the resident of the said village, the distance criteria of 3 kilometres is not fulfilled. Therefore, her appointment was contrary to the mandatory norms fixed by the Government order referred to above. Therefore, the same is liable to be interfered with.

13. The said submissions made by the learned counsel for the petitioner for more than one reason cannot be countenanced.

Firstly, even at the time of application, the 2nd respondent had given her address only at Kangaikondan. At the time of making the application, the 2nd respondent had produced the ration card, which stands in the name of her mother-in-law apart from the other residential proof, the interview was conducted and the 2nd respondent was selected and appointed. This factor has revealed



in the very impugned order itself, where the address of the 2nd respondent has been shown as Kangaikondan Main Road, Ward No.1, Ramanathapuram 623705. This document would clearly establish the fact that the 2nd respondent not only for the purpose of getting the job in the year 2012, but also for all other purposes, had been in the ordinary residence of Kangaikondan Village, atleast from the year 2006. When that be so, the main contention raised on behalf of the petitioner that the 2nd respondent not belonged to Kangaikondan Village is of no basis. Therefore, there is every justification on the part of the official respondents to justify the appointment of the 2nd respondent on the basis of residence.

13.1. Even according to the Government order in G.O.No.163, the other condition prescribed is that the person should have completed 10th standard, if he/she is a general category or Scheduled Caste category and only for Scheduled Tribe people, the educational qualification was pass in 8th standard. The age prescription was that they should have completed 21 years and should not have completed 48 years. The distance criteria is, as has been stated above, within 3 kilometres from the Noon Meal Centre.

13.2. Insofar as the 2nd respondent is concerned, she has passed 10th standard, she was at 38 years at the time of appointment. Therefore, she is between the lower and upper age limits, ie., 21 and 40 and the residence is Kangaikondan, which is less than 3 kilometres from Nedungurichi Noon Meal Centre.

14. Therefore, all these three major criteria, as has been prescribed under the Government order, since have been fulfilled by the 2nd respondent, there is no plausible reason for this Court to interfere with the impugned order and therefore, in that view of the matter, the writ petition fails and the same is dismissed. No costs. Consequently connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub Assistant Registrar(CS)

To

The District Collector, Ramanathapuram District
Ramanathapuram.

+1cc to the Special Government Pleader, in SR.80279

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