IN THE HIGH COURT OF JUDICATURE AT HYDERABAD FOR THE STATE OF TELANGANA AND THE STATE OF ANDHRA PRADESH

MONDAY, THE FIRST DAY OF FEBRUARY TWO THOUSAND AND SIXTEEN

Present

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39819 of 2015

Between:

Gutam Vani, W/o. Tata Rao,
Hindu, Aged about 32 years,
Occ: Anganwadi Helper,
R/o. Chinnapeta Hamlet Village of Ganti,
Kothapeta Mandal, East Godavari District.

.. Petitioner

AND

The State of Andhra Pradesh,
Rep. by its Principal Secretary,
Women and Child Welfare Department,
Secretariat Building,
Hyderabad & 4 others

.. Respondents

The Court made the following:

HON'BLE SRI JUSTICE P.NAVEEN RAO

WRIT PETITION No.39819 of 2015

ORDER:

According to the petitioner, the petitioner was appointed as Anganwadi Helper in Anganwadi Centre Code No.23, Chinapet, Ganti Village of Kothapet Mandal, East Godavari District, with effect from 03.04.2013. Her services were sought to be terminated in the year 2014 on the ground that her appointment was temporary and was only for one year and, therefore, liable for termination and no renewal can be granted. Aggrieved by the order of termination, the petitioner filed W.P.No.30737 of 2014. In terms of the directions issued by this Court, the petitioner was continued. While so, selections were made and in pursuant to the selections conducted, the 5th respondent herein was appointed as Anganwadi Helper to the said Centre. Challenging the appointment of the 5th respondent and continuation of the 5th respondent, this writ petition is filed.

2. Learned counsel for the petitioner contends that the 5th respondent produced a bogus eligibility certificate of pass in V Class, whereas the said certificate was held to be bogus and reports were submitted to this extent as early as in June, 2014, but no action is taken and on account of fraud played by the 5th respondent, her services ought to have been terminated and the petitioner ought to have been appointed as Anganwadi Helper to the said Centre.

3. Learned counsel for the petitioner further submits that the

petitioner was entitled to be considered in the selection process as per the directions issued by this Court in W.P.No.30737 of 2014, whereas the petitioner was not considered.

4. Learned counsel for the petitioner further contends that the Anganwadi Centre is located in Scheduled Caste Habitation and when the Anganwadi Centre is located in Scheduled Caste Habitation, as per the orders of the Government in G.O.Ms.No.21, Women Devept, Child Welfare & Disabled Welfare (ICDS) Dept., dated 24.08.2007, the Centre should be earmarked for Scheduled Caste category, whereas illegally the Centre is earmarked for Scheduled Tribe category and the post is said to be filled up by the 5th respondent. Since the petitioner is a Scheduled Caste, she is entitled to be appointed and ought to have been appointed.

5. Earlier on the assertion of the learned counsel for the petitioner that even though a false certificate is submitted by the 5th respondent and even though a letter was addressed on 03.06.2015 by the C.D.P.O., I.C.D.S Project, Kothapet, to the Project Director, District Women and Child Welfare Development Corp., Kakinada, no further action was taken, this Court called for report. The matter underwent adjournments for compliance of the directions for filing a report by the District Collector, East Godavari District, Kakinada. In the meantime, learned counsel, Sri G. Seshadri, entered appearance for the 5th respondent.

6. Today when the matter is taken up, learned Assistant Government Pleader produced the report of the District Collector, East Godavari District, Kakinada. The report discloses that the petitioner was temporarily appointed as Anganwadi Helper for a period of one year as there was no eligible candidate belonging to Scheduled Tribe category and the appointment was conditional. The report further

states that the steps were taken to fill up the vacancy of Anganwadi Helper by a Scheduled Tribe candidate and in the selections conducted, the 5th respondent was found suitable and was, accordingly, appointed. In terms of the orders of this Court in W.P.No.30737 of 2014, the petitioner was continued upto the induction of the 5th respondent. The report further says that the issue was examined regarding the submission of bogus certificate and as it was found that the 5th respondent submitted a bogus eligibility certificate, her services were terminated. Learned Assistant Government Pleader also produced the proceedings, dated 13.01.2016, terminating the services of the 5th respondent.

7. Having regard to the fact that the services of the 5th respondent are terminated, the primary grievance of the petitioner stood attended. However, the learned counsel for the petitioner further submits that since the services of the 5th respondent are terminated, as petitioner was working till her appointment was made and as the Centre belongs to a Scheduled Caste Habitation and the petitioner being a Scheduled Caste, the petitioner ought to have been continued and, therefore, a direction be issued for continuation of the petitioner as Anganwadi Helper in the said Centre.

8. Admittedly, the petitioner was temporarily appointed and continued in pursuant to the directions issued by this Court till the finalization of the selection process. This Court, in W.P.No.30737 of 2014, directed to continue the petitioner in the post occupied by the petitioner till candidates from the reserved category are selected after completing the interview process. The Court also directed for consideration of the petitioner and other similarly situated persons for interview if the unreserved candidates are allowed and permit the petitioner to participate in the interview. The petitioner was considered in terms of the said order and also continued as directed by the Court

till the selection process was finalized. Admittedly, the petitioner is not in service as a consequence to the appointment of the 5th respondent as Anganwadi Helper. On termination of the 5th respondent, it cannot automatically restore the earlier appointment of the petitioner. Further more, in this case, the authorities have treated the vacancy as belonging to Scheduled Tribe, whereas the petitioner claims that the vacancy ought to be earmarked for Scheduled Caste and belongs to Scheduled Caste. This issue has to be resolved by the competent authority and fresh recruitment process has to be resorted, whether it is earmarked for Scheduled Caste or Scheduled Tribe. Only if the vacancy is earmarked for Scheduled Caste, the petitioner can be considered along with other persons and after process of recruitment is taken up. Without recruitment process and without considering other eligible candidates, no direction can be issued for continuation of the petitioner merely on the ground that the petitioner was earlier appointed on a temporary basis for a period of one year. If it is reserved for Scheduled Tribe and if eligible candidates are not available, in accordance with G.O.Ms.No.21, Women Devept, Child Welfare & Disabled Welfare (ICDS) Dept., dated 24.08.2007, appropriate decision can be taken. Thus, no direction as sought for by the petitioner can be granted at this stage.

9. Having regard to the fact that the services of the 5th respondent are already terminated, subject to working out legal remedies as available to the 5th respondent, the respondent authorities are directed to take further steps to identify the post with reference to the social status to which it is reserved and to take up further steps as required to fill up the post as expeditiously as possible, preferably within a period of four (4) weeks from the date of receipt of copy of this order.

10. With the above observations, the Writ Petition is

dismissed. There shall be no order as to costs. Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

P.NAVEEN RAO, J

Date: 1st February, 2016

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HON'BLE SRI JUSTICE P.NAVEEN RAO

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