

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:05.06.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.SATHYANARAYANAN

W.P.Nos.3537 & 3538/2011 & MP.Nos.1&1/2011

A.Saritha .. Petitioner
in WP.No.3537/2011

G.Jayasudha .. Petitioner in
WP.No.3538/2011

Vs

1. The District Collector,
Thiruvallur District.

2. The Commissioner
Tiruttani Panchayat Union
Tiruttani.

.. RR1&2 in
both writ petitions

3. R.Sumathi .. 3rd Respondent
in WP.No.3537/2011

4. J.Latha .. 3rd Respondent
in WP.No.3538/2011

Prayer in both writ petitions:- Writ Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of certiorarified mandamus calling for the records of the 1st respondent in RC.No.19138/08/A8 dated 28.01.2011 and quash the same and direct the 1st respondent to appoint the petitioners as Noon Meal Organisers in Baliya Street, Panchayat Union Elementary School, Tiruttani, and in Melkasavaraja Pettai, Panchayat Union, Elementary School, Tiruttani, as per the recommendation of the 2nd respondent.

For Petitioners in both
writ petitions : Mr.V.Suthakar for
Mr.M.S.Palaniswamy

For R1 in both writ
petitions : Mr.K.Dhananjayan, Spl.GP

For R2 in both
writ petitions : Mr.R.Chandrasekaran

For R3 in both
writ petitions : Mr.S.Ramesh

COMMON ORDER

The matter in issue to be adjudicated and resolved is one and the same and hence, both the writ petitions are taken up for final disposal.

2. The facts leading to the present litigations have been narrated in detail and in extenso in the judgment dated 16.007.2010 made in WA.Nos.1022 and 1023/2010 and therefore, it is unnecessary to re-state the facts once again so as to avoid repetition.

3. The Division Bench, while entertaining the Writ Appeals in WA.No.1022/2011 filed by J.Latha - 3rd respondent in WP.No.3538/2011 and WA.No.1023/2011 filed by R.Sumathi - 3rd respondent in WP.No.3537/2011, has directed both the appellants therein to appear before the 2nd respondent therein, viz., The District Collector, Tiruvallur District on 09.08.2010 and the said official was directed to afford reasonable opportunity to both the appellants as well as to the respective 1st respondents therein - writ petitioners herein ; look into all the relevant records and thereafter, pass final orders within a period of four weeks after the appearance of the parties and till such time, permitted the respective appellants therein / respective 3rd respondent herein to continue in their post in the post of Noon Meal Organisers.

4. Mr.V.Suthakar, learned counsel appearing for Mr.M.S.Palaniswamy, learned counsel appearing for the petitioners would submit that after passing orders, both the respective 3rd respondents herein had shifted their residence within the limits in which the Noon Meal Centres are located and the Collector of Tiruvallur District, without taking note of the said fact, had sustained their appointments and prays for interference.

5. Per contra, Mr.K.Dhananjayan, learned Special Government Pleader appearing for the 1st respondent has drawn the attention of this Court to the counter affidavit filed by the 1st respondent / District Collector, Tiruvallur and would submit that this Court, taking into consideration, the scope and purport of the order of remand passed in the above writ appeals and on due and proper application of mind to the relevant

Government Orders and the materials placed, has rightly confirmed the appointment of the respective 3rd respondents in these writ petitions and since the said exercise has been done strictly in accordance with law, the impugned orders need not be interfered with.

6. The Court heard the submissions of Mr.R.Chandrasekaran, learned counsel appearing for the 2nd respondent and Mr.S.Ramesh, learned counsel appearing for the respective 3rd respondents in the writ petitions and also paid its best attention to the rival submissions and perused the materials placed before it.

7. The accommodation of persons who are residing within the locality in which the Noon Meal Centres are located, came up for consideration before a Division Bench of this Court in WA.No.146/2012 [The Secretary to Government, Social Welfare and Noon meal Scheme Department, Government of Tamil Nadu, Chennai 600009 and another Vs. S.Mageswari and another] and the Division Bench vide its judgment dated 16.04.2012, after taking into consideration the relevant Government Order and giving preference to the locality, had issued the following clarification in paragraph No.23 and it is necessary to extract the same:-

"[1] Wherever there is vacancy in any Noon Meal or Anganwadi Centre, eligible persons residing in the same hamlet should be appointed?

[2] Where qualified persons are unavailable in the hamlet, eligible persons from other neighbouring hamlets under the same village panchayat should be selected. If even such persons are not available, then qualified persons from other panchayats, not beyond the distance of 10 kilometers surrounding the said panchayat should be selected.

[3] As far as Municipalities / Corporations are concerned, eligible persons from the same Ward where there is a vacancy should be selected and on the unavailability of persons there, eligible persons from the nearby Ward should be considered and if even such persons are not available, then persons from the same Division should be selected.

From the above, we are clear in our mind that the Government has tried its utmost to evolve a pragmatic solution while appointing Noon Meal Organisers from places nearer to the Noon Meal Centres, and the distance criterion has been rightly fixed taking into account the practical difficulties faced while

appointing persons belonging to far off places.”

8. A perusal of the impugned orders passed by the 1st respondent - Collector of Tiruvallur District, disclose that the points urged by the writ petitioners as to the non-compliance of the residential requirement on the part of the respective 3rd respondents in each of these writ petitions, have not been properly considered and therefore, it is to be set aside and the matter is to be remanded to the 1st respondent once again and re-do the exercise and till such time, the occupation in the post of the Noon Meal Organisers by the respective 3rd respondent in these writ petitions, need not be disturbed.

9. In the result, the writ petitions are partly allowed and the impugned orders passed by the 1st respondent dated 28.01.2011 in RC.No.19138/08/A8 are hereby set aside and the matter is once again remanded to the District Collector, Tiruvallur District - the 1st respondent herein who shall take into consideration the clarification issued by this Court in the judgment dated 16.04.2012 in WA.No.146/2012 [The Secretary to Government, Social Welfare and Noon meal Scheme Department, Government of Tamil Nadu, Chennai 600009 and another Vs. S.Mageswari and another] and after affording reasonable opportunity of hearing to the writ petitioners as well as to the respective 3rd respondents herein, shall pass orders on merits and in accordance with law within a period of ten weeks from the date of receipt of a copy of this order and communicate the decision taken, to the petitioners as well as to the respective 3rd respondents herein and till such time, the respective 3rd respondents in each of these writ petitions shall continue to function as the Noon Meal Organisers. No costs. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

AP

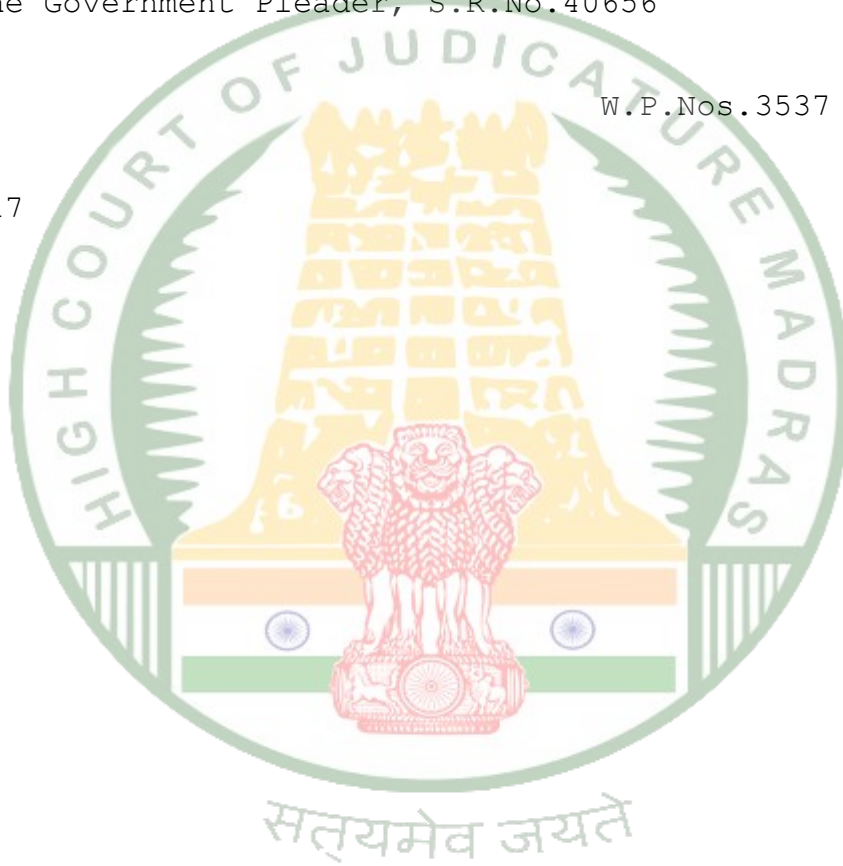
To

1. The District Collector,
Thiruvallur District.
2. The Commissioner
Tiruttani Panchayat Union
Tiruttani.

+2cc to Mr.S.Ramesh, Advocate, S.R.No.40011
+1cc to Mr.M.S.Palaniswamy, Advocate, S.R.No.40512
+1cc to the Government Pleader, S.R.No.40656

W.P.Nos.3537 & 3538/2011

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