

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 07.02.2017

CORAM

THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR

W.P.No.703 of 2011

N.Sumathi

... Petitioner

- Vs -

1. The District Collector,
Villupuram District,
Villupuram.

2. The Block Development Officer,
Kallakurichi Union,
Villupuram District.

3. John Prema

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Mandamus, calling for the records pertaining to the impugned order passed by the 1st respondent in his proceedings made in Na.Ka.No.Pa.E/4/69/2010 dated 08.11.2010 and quash the same and consequently, direct the 1st respondent to appoint the petitioner as Noon-Meal Organizer at Latchiyam Village Panchayat Union Primary School.

For Petitioner

: Mr.A.G.Rajan

For Respondents

1 & 2 : Mr.S.Diwakar

Special Government Pleader

For R3

: No Appearance

O R D E R

According to the petitioner, she is a native of Latchiyam Village. She is a physically handicapped person and has studied upto S.S.L.C. She is therefore eligible to be appointed as Noon Meal Organizer in Panchayat Union Schools. The applications were called for by the 1st respondent for filling up vacancies falling at various Noon Mean Centres for the year 2007. The petitioner being a candidate from scheduled caste, applied for a post along

with other candidates. But, unfortunately, the said selection was cancelled without assigning any reason.

2. Again in the year 2009, the communal rotation was purposely changed to Latchiyam Panchayat Union School alone and the vacancy was allotted to B.C. Christian in order to accommodate a candidate to the choice of the respondents. The petitioner came to know that the 3rd respondent alone, being a Christian, applied for the above post at Latchiyam Panchayat Union School. An interview was conducted on 27.2.2009 for formality sake, violating all the norms prescribed by the Government.

3. As per the G.O.Ms.No.215 dated 19.12.1998, G.O.Ms.No.918 Dated 3.11.1989, G.O.Ms.No.294 dated 21.10.1993, G.O.Ms.No.206 dated 13.09.1996 and G.O.Ms.No.203 dated 19.08.2004, the following criteria must be followed for the selection to the post of Noon Meal Organizer:

- 1) The candidate should have passed S.S.L.C. Or failed.
- 2) The candidate should be in between the age group of 25 to 40.
- 3) The Candidate should be a resident of the village in which the Noon Meal Centre is located.
- 4) At least minimum two candidates should be called for interview.

4. It is submitted that the 3rd respondent is not the native of Latchiyam Village. She is from Agarakottam Village, which is 18 Kms away from Latchiyam Village. The 3rd respondent herself has submitted in her application that her village is 13 Kms away from Latchiyam Village. Violating all the above norms, she has been selected and appointed by the 1st respondent. The petitioner was denied of her chance to apply for the said post by purposely changing the quota from Schedule Caste to B.C., Christian. Hence, the petitioner made a representation to the 1st respondent on 13.06.2010. When no action was taken on her representation, she again sent a reminder on 20.07.2010 through registered post. Since no action was taken, the petitioner has filed W.P.No.16169 of 2010.

5. This Court, by order dated 03.09.2010 in W.P.No.16169 of 2010, directed the 1st respondent to dispose of the representation dated 13.06.2010, within a period of eight weeks from the date of receipt of a copy of the order. The 1st respondent was also directed to hear the petitioner before passing the final order.

6. On 01.11.2010, the petitioner appeared before the 1st respondent, but she was directed to appear before the Personal Assistant of the 1st respondent and therefore, the petitioner had

appeared before the Personal Assistant of the 1st respondent, who is not the competent authority. The said Personal Assistant did not conduct any enquiry about the representation and simply asked her to put her grievance in writing and hand over it to him. Therefore, the petitioner left the office. Later on, the petitioner received an order from the 1st respondent, making certain allegations that she did not cooperate during the enquiry, which is nothing but a blatant false. Hence, the petitioner has filed the present writ petition before this Court, alleging the 1st respondent has not followed the procedure as per the norms prescribed for appointment as Noon Meal Organizer and passed the impugned order.

7. On the contrary, the 1st respondent has filed counter affidavit stating that the 1st respondent has called for applications for the post of Noon Meal Organizer for the year 2009 and an advertisement was published in the Notice Board of the concerned Panchayat Union Offices dated 12.02.2009 in the Villupuram District. The applications received for the above post were scrutinized and interview call letters were issued to the applicants. The petitioner also applied for the post of Noon Meal Organiser, in Varadapanur Panchayat Union Elementary School in General category but, she was not selected in the aforesaid process and the 3rd respondent was selected. The petitioner, challenging the selection of the 3rd respondent, has come before this Court by filing W.P.No.16169 of 2010, and this Court, on 03.09.2010, has directed the 1st respondent to dispose of the representation dated 13.06.2010, of the petitioner, within a period of eight weeks from the date of receipt of a copy of the order.

8. In compliance of the said order, notice has been issued to the writ petitioner as well as to the 3rd respondent to appear before the 1st respondent on 01.11.2010 for personal hearing. Both the petitioner as well as the 3rd respondent had appeared before the 1st respondent on 01.11.2010 and requested that their grievance may be submitted in written submissions besides oral. The 3rd respondent has submitted her written submission stating that she had appeared for the interview on 27.02.2009 before the selection committee and therefore, requested to consider her for appointment. But, the petitioner agreed to submit her grievance in written submission, but she left in the process of enquiry without submitting her written submission. It is therefore submitted that the 3rd respondent was selected and appointed by the appointing Committee and the selection was well within the norms as prescribed. Therefore, the appointment order was issued in favour of the 3rd respondent as per the communal reservation, B.C.Christian to the Panchayat Union Primary School for the above post of Noon-meal Organiser.

9. The 2nd respondent has also filed counter, wherein, he stated in paragraphs 7 and 8 that the distance between Agarakottalam, the residence of the 3rd respondent and Latchiyam is only 9 Kms., which is well within the norms. Further, he has stated that appointment and the interview details were published in two dailies in Tamil and the detailed vacancy position, communal reservation and place and date of interview were also published. The 3rd respondent was the lone contender for the post of Noon Meal Organiser, since she being the Christian under Backward Caste community. Hence, based on the report of the 2nd respondent, the 1st respondent issued appointment order to the 3rd respondent posting her as Noon Meal Organiser for Latchiyam Panchayat Union Elementary School in Kallakurichi Block. Therefore, the respondents 1 and 2 had acted in accordance with law.

10. Heard the learned counsel for both sides.

11. The petitioner has applied for the post of Noon Meal Organiser in the year 2007. But, she was not selected. Therefore, she has filed a writ petition before this Court in W.P.No.16169 of 2010 and this Court has directed the 1st respondent to consider the representation of the petitioner, after providing opportunity to both the parties concerned. The petitioner and the 3rd respondent appeared on the particular date of interview, but the 1st respondent has not permitted the petitioner to submit her written statement. The process made by the 2nd respondent is in violation of the procedure for selection of Noon Meal Organiser. In the counter filed by the 2nd respondent it is stated that the appointment and the interview details were published in two dailies in Tamil and the detailed vacancy position, communal reservation and place and date of interview were also published. The 3rd respondent was a lone contender for the post of Noon Meal Organiser since she being a Christian under Backward Caste community. Subsequently, this Court has directed the 2nd respondent to produce the relevant documents to establish his case that the interview was conducted as per procedure, as stated in the counter affidavit. But the 2nd respondent is not in a position to produce the relevant documents before this Court to establish his case, that the interview was conducted as per the procedure. Further, whether the 1st respondent has already arrived at as per roaster system or not has not been clearly indicated in the present counter. The grievance of the petitioner is that the 1st respondent has not complied with the direction of this Court, dated 03.09.2010 and without giving proper opportunity to the petitioner, the 1st respondent has passed the order.

12. Therefore, in the light of the above said fact, this Court is not hesitant in setting aside the order passed by the 1st respondent. This Court directs the 1st respondent to give

appropriate opportunity to the petitioner and to pass final order in detail, with due compliance of the norms as per the Government Orders. The said exercise shall be completed by the 1st respondent within a period of one week from the date of receipt of a copy of this order. By consent of parties, till the final decision is taken by the 1st respondent, the 3rd respondent can continue in the aforesaid post.

13. With the above direction, this Writ Petition is allowed and the impugned order passed by the 1st respondent in his proceedings made in Na.Ka.No.Pa.E/4/69/2010 dated 08.11.2010 is quashed. No costs.

-s/d-

Assistant Registrar(CSII)

True Copy

Sub-Assistant Registrar

ssn

To

1. The District Collector,
Villupuram District,
Villupuram.

2. The Block Development Officer,
Kallakurichi Union,
Villupuram District.

+1 cc to Government Pleader sr 8312

+1 cc to M/s.A.G.Rajan Advocate sr 7618

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