

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.08.2017

CORAM

THE HON'BLE Mr. JUSTICE V.PARTHIBAN

W.P.No.24798 of 2012 and  
M.P.No.1 of 2015 &  
M.P.No.2 of 2012

M.Kavitha .....Petitioner  
Vs.

1.The District Collector,  
Dharmapuri District.

2.The Commissioner,  
Social Welfare Department,  
Chepauk, Chennai 600 005.

3.R.Sumathi .... Respondents

Prayer : Petition filed under Article 226 of The Constitution of India praying to issue a Writ of Certiorarified Mandamus, to call for the records of the first respondent pertaining to impugned order passed in Na.Ka.No.11393/2012/X1 dated 21.08.2012, quash the same as illegal and direct the first respondent to consider the application of the petitioner on merits.

For Petitioner : Mr.M.Selvam

For Respondents: Mr.T.M.Pappiah  
Special Govt. Pleader  
for RR1 to 2  
: Mr.S.T.Varadarajulu, for R3

O R D E R

Heard Mr.M.Selvam, learned counsel appearing for the petitioner and Mr.T.M.Pappiah, learned Special Government Pleader appearing for the first and second respondents and Mr.S.T.Varadarajulu, learned counsel appearing for the third respondent.

2.The petitioner has approached this Court for seeking the following relief,

"To issue a Writ of Certiorarified Mandamus, to call for the records of the first

respondent pertaining to impugned order passed in Na.Ka.No.11393/2012/X1 dated 21.08.2012, quash the same as illegal and direct the first respondent to consider the application of the petitioner on merits."

3. The case of the petitioner is as follows:

The grievance of the petitioner is that she was called for interview vide call letter dated 30.07.2012, to be scheduled on 07.08.2012 for the purpose of appointment to the post of noon meal organizer in Kalavaikarankottai Anganwadi. According to the petitioner, she is a resident of Chinna Noolhalli Village in Dharmapuri Taluk. The said village is less than 1-1/2 kilometers from the noon meal centre for which she was called for interview.

4. However, the first respondent overlooking the claim of the petitioner, despite her eligibility and qualification, had appointed the third respondent by order dated 21.08.2012. According to the petitioner, while appointing the third respondent, the authorities have not followed the G.O.Ms.No.163, dated 18.08.2010, which provides appointment for employees those who live within three kilometers from the noon meal centre, whereas the third respondent is living at Vennampatti Village. The said village is 11 kilometers away from the Anganwadi. Therefore, her appointment is contrary to the provisions of said G.O.Ms.No.163 dated 18.08.2010.

5. Upon notice, learned Special Government Pleader entered appearance and filed a detailed counter. In paragraph 3 of the counter, it is stated that the third respondent had been appointed because she had obtained more marks than the petitioner and the third respondent lives within 8 kilometers from the said noon meal centre. According to the G.O.Ms.No.203 dated 19.08.2005, persons within a radius of ten kilometers can be selected, if there is no eligible hand within the radius of three kilometers. According to the Government Order, there was a quota prescribed for appointment of widows and the third respondent being a widow, she was selected in preference to the petitioner.

6. The learned counsel appearing for the third respondent would submit that she was in employment since 2012 and she wants to be continued as a noon meal organizer in the above said center.

7. Upon consideration of the rival submissions of the parties, this Court is of the view that though the claim of the petitioner was negatived initially and the

appointment of third respondent had taken place in 2012, however, there is some merits in the contention put forth by the learned counsel appearing for the petitioner. However, considering the circumstances of the case, the third respondent had already been appointed and working as a noon meal organizer for nearly five years, her appointment need not be upset and disturbed. At the same time, the right of the petitioner cannot be brushed aside because of the pendency of the present writ petition.

8. In the said circumstances, the first and second respondents are directed to explore the possibility of accommodating the petitioner in any one of the nearby noon meal centres, in case there are any existing vacancy available or accommodate the petitioner in any future vacancies.

9. With the above observations, the writ petition stands disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Asst.Registrar (CS II )

/true copy/

Sub Asst. Registrar

gsk

To

1.The District Collector,  
Dharmapuri District.

2.The Commissioner,  
Social Welfare Department,  
Chepauk, Chennai 600 005.

+1cc to Mr.M.Selvam,Advocate sr.60956

+1cc to Mr.S.T.Varadharajulu,Advocate sr.61349

+1cc to Government Pleader sr.61683

W.P.No.24798 of 2012

nm(co)

ss(7/9/2017)