



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.05.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.V.MURALIDARAN

W.P. (MD) No.9857 of 2017

and

WMP (MD) Nos.7553 and 7554 of 2017

Hindu Aided Primary School,
Marandhai,
Tirunelveli District,
Rep. by its Secretary,
P.Thayappan
S/o Ponnusamy Pillai

... Petitioner

Vs.

1. The State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
Social Welfare & Nutritious Meal Program Department,
Secretariat, Fort St. George,
Chennai - 600 009.

2. The District Collector,
Tirunelveli District,
Tirunelveli.

3. The Block Development Officer,
Alangulam Panchayat Union,
Tirunelveli District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records relating to impugned Notification issued by the 2nd Respondent through paper advertisement in No. Nil dated 04.05.2017 and to quash the same and consequently directing the respondent to conduct selection to the post of Noon Meal Organizer by adopting method of selection involving participation of School Management and in compliance with other legal requirements.

For Petitioner : Mr.F.Deepak

For Respondents : Mr.T.R.Janarthanan
Additional Government Pleader

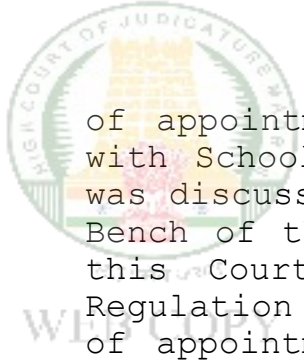
O R D E R

The petitioner has filed the writ petition for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to impugned Notification issued by the 2nd Respondent through paper advertisement in No. Nil dated 04.05.2017 and to quash the same and consequently directing the respondent to conduct selection to the post of Noon Meal Organizer by adopting method of selection involving participation of School Management and in compliance with other legal requirements.

2.The case of the Petitioner is that the Petitioner is the School by namely Hindu Aided Primary School. The Petitioner School was established with a laudable object of imparting quality education to the section of people belong to rural poor and socially and economically suppressed community. The School has been recognized and after the formation of Department of School Education, the School has been assessed with grant in aid. Therefore, it is an Aided School governed by the provisions of Tamil Nadu Recognized Private School (Regulation) Act and Rules. The School has come with the advent of Noon Meal Scheme, and the Noon Meal Centers are started within the School premises with the appointment of Noon Meal Organizer, Cook and Cook Assistants. To that effect, the Government of Tamil Nadu issued an orders in G.O.Ms.No.215, Chief Minister Nutritious Meal Programme and Social Welfare Department dated 09.12.1988 prescribing the method of appointment by the local body concerned.

3.The petitioner also states that the State Government also issued orders in G.O.Ms.No.294 Social Welfare and Nutritious Meal Programme Department dated 21.10.1993 conferring powers to the Personal Assistant to Collector to issue the order of appointment to the candidate by making selection by constituting the Selection Committee which include Correspondent/Headmaster of the concerned School as a member. Therefore, the Petitioner School appointed a committee and filling of 5 persons selected by the School Management and the same was forwarded to the Committee, based on the decision taken by the Committee and the order of appointment will be issued by the Personal Assistant to the District Collector. The said procedure is followed all along for the purpose of filling up the post of Noon Meal Organizer in the Aided Schools.

4.The petitioner also states that there are several orders were passed by this Court in respect of the appointment of the Noon Meal Organizer that the appointment to be made only from the panel sponsored by the School Management, now the order passed in W.P. (MD) No.9044 of 2007 dated 04.04.2007. Apart from this, the Hon'ble ~~Deceased~~ ~~of this Court~~ ~~in W.A. (MD) No.125 of 2005 dated 05.10.2007,~~ after considering the provisions of Private School Regulation Act and the earlier Government orders held that the power



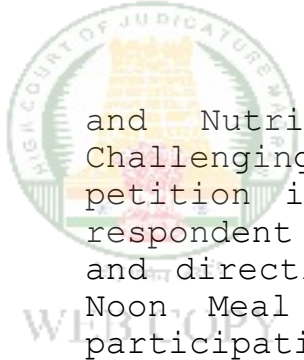
of appointment to Noon Meal Organizer in a Private School vested with School Management. The right of the Private School Management was discussed in detail in the orders passed by the Hon'ble Division Bench of this Court in W.A.(MD)No.125 of 2005 dated 05.10.2007 and this Court after considering the provisions of Private School Regulation Act and the earlier Government orders held that the power of appointment to Noon Meal Organizer in a Private School vested with School Management only.

5.While being so, the Government has issued another orders in G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department dated 18.08.2010, framing guidelines with reference to qualification and method of appointment to the post of Noon Meal Organizer, Cook and Cook Assistant in the Noon Meal Centre. Thereafter, another Government Order issued in G.O.Ms.No.4 Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011, by which the Appointing Authority and procedure for appointment is prescribed.

6.The petitioner also states that as per G.O.Ms.No.4 Social Welfare and Nutritious Meal Programme Department dated 06.01.2011, the District Collector is the Appointing Authority for the post of Noon Meal Organizer and P.A. to District Collector is the Appointment Authority for the post of Cook and Cook Assistant. Pursuant to that, the preparation of panel by the School Management for selection to the post of Noon Meal Organizer, Cook and Cook Assistant is allowed for minority institution, whereas the participation of School Management in the selection is completely taken away in respect of the non minority institution.

7.The writ petitioner also states that when the Government Order in G.O.Ms.No.163 Social Welfare and Nutritious Meal Programme Department dated 18.08.2010 as well as subsequent G.O.Ms.No.4 Social Welfare and Nutritious Meal Programme Department dated 06.01.2011, wherein final orders passed by this Court on 17.10.2012, this Court quashing the certain conditions in G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2011 and further declaring that the G.O.Ms.No.4 Social Welfare Nutritious Meal Programme Department dated 06.01.2011 has issued directions and this Court quashed the order in G.O.Ms.No.4 Social Welfare Nutritious Meal Programme Department, dated 06.01.2007.

8.It is the further case of the petitioner that without evolving any scheme with reference to the method of selection and appointment to the post of Noon Meal Organizer, etc., even after the orders passed by this Court in the batch of writ petitions dated 17.10.2012, the Respondents now proceed to take steps to fill up the post of Noon Meal Organizer by making paper advertisement as per the terms of Government orders issued in G.O.Ms.No.163, Social Welfare



and Nutritious Meal Programme Department, dated 18.10.2010. Challenging the same, the writ petitioner has filed the present writ petition in quashing the impugned notification issued by the 2nd respondent through paper advertisement in No.Nil dated 04.05.2017 and directing the respondents to conduct selection to the post of Noon Meal Organizer by adopting method of selection involving participatio of School Management and in compliance with other legal requirements.

9. When the matter has been taken up for admission, on behalf of the respondents Mr.T.R.Janarthanan, learned Additional Government Pleader takes notice for the respondents. Therefore, on consent by both the counsels, the main writ petition itself is taken up for final hearing.

10. I heard Mr.F.Deepak, learned counsel appearing for the petitioner and Mr.T.R.Janarthanan, learned Additional Government Pleader appearing for the respondents and perused the records.

11. The writ petitioner has filed this petition challenging the paper notification dated 04.05.2017.

12. On fair reading of the impugned notification published in the news paper i.e. Dinamani dated 04.05.2017, the writ petition itself is not maintainable, since the present impugned notification is only a report in respect of recruitment for 139 Noon Meal Organizers and there is no advertisement or any particulars in respect of selection or the recruitment. The petitioner ought to have challenged any notification indicating all the particulars in respect of candidates, qualifications, age, community, and process of method. But he has not right to challenge the paper news issued in the news paper. Therefore, on prima facie, the writ petition itself is not maintainable, since he challenged only the paper report not at all notification.

13. Admittedly, this Court by order dated 17.10.2012 quashed G.O.Ms.No.4 dated 06.01.2011 and this Court issued the following direction to the respondents while recruiting the Noon Meal Organizer post, which is extracted in the writ petition order in W.P. (MD) No.7981 of 2012 and batch dated 17.10.2012 as follows:

"Para-70:- A writ in the nature of Mandamus is issued directing the Respondents

i. to consolidate all the Government Orders/Instructions dealing with appointment of Noon Meal Organizers/Cook/Cook Assistant under the order of Puratchi

Inhalaiyar MGR Scheme also disclose eligibility conditions regarding age, qualification, additional qualification, if



any, so as to enable the applicant to apply for the post.

ii. to invite applications for all the posts in the District from all the eligible candidates. The advertisement should indicate the posts, reserved for each reserved categories and the posts for general category, disabled etc. The advertisement should also disclose eligibility conditions regarding age, qualification, additional qualification, if any, so as to enable the applicant for the post.

iii. Constitute the Selection Committee to consider the merit of every eligible candidate, thereafter, selection can be made purely on merit, subject to reservation and communal rotation as per guidelines to be fixed by the Selection Committee to assess the merit of each candidate.

iv. In order to achieve the object of having local person to man the post, the selected candidate can be posted in his village, subject to right of transfer to District Collector as envisaged under the Government Instructions. In case of two or more persons are selected from the same village, then they can be posted to nearby village, but this is for the State Government to decide."

14. As per the directions, it is mandatory that while the respondents about to make the recruitment even pursuant to the paper publication dated 04.05.2017, the respondents must have follow the directions issued by this Court in the above writ petition dated 17.10.2012. Once this Court has issued direction to the respondents, follow the guidelines as mentioned, it is pointed out by the respondents to follow and make appointment.

15. In the above circumstances, it is my absolute view that the writ petitioner has not make out any case in this writ petition, but anyhow, this Court by order dated 17.10.2012 in the batch of cases, issued direction to the authorities concerned while reserve the post for the Noon Meal Organizer, they should follow the same without any violation of the order passed by this Court. Therefore, giving liberty to the petitioner, this writ petition is liable to be dismissed.

16. In the result:

(a) this writ petition is dismissed with a liberty to the petitioner to make a representation by mentioning all the orders of this Court and the Government Orders and W.P. (MD) No. 7981 of 2012 and batch dated 17.10.2012, within a



period of 15 days from the date of receipt of a copy of this order;

(b) the respondents, particularly, the respondents 2 and 3 are directed to consider the petitioner's representation, based on the order's of this Court made in W.P.(MD)No.7981 of 2012 and batch dated 17.10.2012, by giving personal opportunity to the petitioner;

(c) the 2nd respondent is directed to complete the said exercise within a period of four weeks from the date of receipt of a copy of the said representation;

(d) till such time, the respondents are directed not to make any appointment, pursuant to the paper news dated 04.05.2017 or any other subsequent notification. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

/True Copy/

Sub Assistant Registrar

To

1. The Principal Secretary to Government,
Social Welfare & Nutritious Meal Program Department,
Secretariat, Fort St. George,
Chennai - 600 009.
2. The District Collector,
Tirunelveli District,
Tirunelveli.
3. The Block Development Officer,
Alangulam Panchayat Union,
Tirunelveli District.

+ 1 CC TO Mr.G.SANKARAN, ADVOCATE IN SR No. 57322

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 57882

VSA/SKN

TE/SV-MMS/SAR-I : 06/10/2017 : 6P/6C