



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.09.2018

WEB COPY

CORAM:

THE HONOURABLE Mr.JUSTICE S.VAIDYANATHAN

W.P. (MD) No.19203 of 2018

and

W.M.P. (MD) .Nos.17031 and 17032 of 2018

D.Thamaraiselvi

... Petitioner

Vs.

1. The District Collector,
Theni District,
Theni.

2. The Child Development Programme Officer,
Theni (Rural) Union,
Theni District,
Theni.

... Respondents

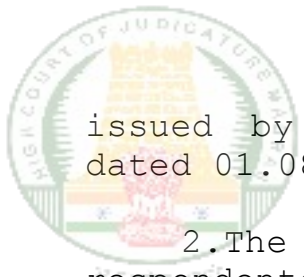
PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order of the 1st respondent in Se.Mu.Na.Ka.No.2321-1B/2017/A1 dated 24.08.2018 and set aside the same as illegal and consequently, to direct the respondents to appoint the petitioner in Ambasamuthram Anganvadi Centre vacancy in pursuance of proceedings issued by the 1st respondent in Se.Mu.Na.Ka.No.2321/A1/2017 dated 01.08.2018.

For Petitioner : Mr.R.Shankar Ganesh

For Respondents : Mr.S.Dhayalan
Government Advocate

ORDER

The petitioner seeks to quash the impugned order of the first respondent, dated 24.08.2018, in Se.Mu.Na.Ka.No.2321-1B/2017/A1 and consequently, direct the respondents to appoint the petitioner in Ambasamuthram Anganwadi Centre, in pursuance of the proceedings



issued by the first respondent in Se.Mu.Na.Ka.No.2321/A1/2017, dated 01.08.2018.

2.The learned Government Advocate takes notice for the respondents.

3.By consent, the writ petition itself is taken up for final disposal.

4.According to the petitioner, she is a destitute woman residing within a radius of less than 10 kms from the place of Anganwadi Centre and that after due enquiry and scrutiny the application of the petitioner, being a destitute widow an appointment order was given. Thereafter, she was not allowed to join duty and hence, she approached this Court by filing a writ petition in W.P.(MD).No.18145 of 2018, by order dated 10.08.2018 this Court directed the respondents to consider the grievance of the petitioner on receiving the destitute widow certificate, if she is otherwise eligible. Before a decision is taken, another impugned order dated 24.08.2018 has been passed by the first respondent stating that her candidature was rejected on the ground that the petitioner is not living within a radius of 10 kms from the Anganwadi Centre.

5.The learned counsel appearing for the petitioner contended that she is residing within a radius of 10 kms from the Anganwadi Centre and that the distance alone is corroborated, she is willing to shift her residence and she is now residing in a rental house.

6.The learned Government Advocate appearing for the respondents would contend that the petitioner is not a destitute woman and she has not produced any certificate to that effect and she has produced the certificate that she is only a widow. That apart, the petitioner was not residing within a radius of 10 kms from the place of Anganwadi Centre, in terms of G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW7) Department, dated 14.05.2012, which stipulates the distance of the residence is 2.8 k.m., which reads as follows:

"2.8 Residency

The Government direct that the applicant should be the resident of the same hamlet. If no eligible/suitable candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, eligible/suitable candidates are not available, the candidates from the neighbouring panchayats located within 10 kms, shall be considered for the appointment of Anganwadi Worker.



In respect of Anganwadi Centres in the Municipality/Corporation area, the applicant residing in the same ward shall be considered. If no eligible/suitable candidate from the same ward is available, the candidates from the nearby ward shall be considered. Even then the eligible candidates are not available, candidates from the Division shall be considered for appointment of Anganwadi worker."

7.As the petitioner is residing more than 10 kms away and the distance is 12 kms, from the place of Anganwadi Centre, the appointment order was cancelled. That apart, another person, who is residing within the radius of 200 metres, lodged a complaint and after conducting an enquiry, it was found that the petitioner was not residing within a radius of 10 kms and hence, her application has been rejected.

8.Heard both sides.

9.Whether the petitioner is a destitute woman or not, need not be decided in this present writ petition.

10.Whether the petitioner, who has got selected and appointed in Anganwadi Centre at Ambasamudram, is residing within a radius of 10 kms or not, as per the residency in G.O.Ms.No.110, dated 14.05.2012, is questioned.

11.The petitioner in her application has stated that she is residing within a radius of 6 kms, and admittedly, the distance is not 6 kms, from the place of Anganwadi Centre. The fact that the petitioner wants to shift her residence to the nearby place of Anganwadi Centre, which clearly shows that she is residing beyond 10 kilometre. On enquiry based on the complaint given by a person, who is residing within the radius of 200 metres, the enquiry was conducted and found that the petitioner is residing at the distance of 12 kms, due to which, the petitioner is willing to shift her residence to the nearby place of Anganwadi Centre. There is no guarantee that after shifting her residence, she will not once again go and stay beyond 10 kms., and as per G.O.Ms.No.110, dated 14.05.2012, the petitioner is not entitled to get appointment and the rejection order dated 24.08.2018 issued by the first respondent is perfectly in law. It is really shocking that when the distance is above 12 kms, in the application, the petitioner has stated that the distance is 6 kms, from the place of Anganwadi Centre and without verifying, the appointment order has been given to the petitioner. There is something fishy in the matter and the person, who appointed the petitioner will have to be divested of the post and shall be posted in non-sensitive posts. It is needless to mention that it is open to the authority to initiate disciplinary proceedings on the person, who has given appointment order to the petitioner.



12. With the above observation, this writ petition is dismissed. No costs. Consequently, the connected miscellaneous petitions are closed.

WEB COPY

Sd/-

Assistant Registrar (Crl.side)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1. The District Collector,
Theni District,
Theni.
2. The Child Development Programme Officer,
Theni (Rural) Union,
Theni District,
Theni.

+ 1 CC TO Mr.R.SHANKAR GANESH, ADVOCATE IN SR No. 82273
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 83112

NS

TE/SV/SAR-4 : 10/10/2018 : 4P/5C

W.P. (MD) No.19203 of 2018
05.09.2018