

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2019
Coram

The Honourable Mr.Justice D.Krishnakumar

W.P.No.10810 of 2011
and
M.P.Nos.1 and 2 of 2011

P.Suseela

...Petitioner

Vs.

1. The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
2. The Child Development Scheme Officer,
Chengam Taluk,
Thiruvannamalai District.
3. R.Uma

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus to call for records of the order passed by the first respondent, in Se.Mu.Na.Ka.No.1173/A1/2008, dated February, 2011 and to quash the same as illegal improper, unreasonable, arbitrary and against the principles of natural justice and thereby, direct the respondents 1 and 2 to appoint the petitioner as Anganvadi Employee at Irular Colony, Chengam Taluk, Thiruvannamalai District, pursuant to the interview attended by the petitioner on 20.12.2010.

For Petitioner : M/s.P.A. Chithramani

For Respondents

1 and 2 : Mr.B.Anand, Government Advocate

For Respondent-3: Mr.P.Mani

O R D E R

The writ petitioner has filed this Writ Petition, seeking to quash the order passed by the first respondent, dated February, 2011 with a consequential direction, directing the respondents 1 and 2 to appoint the writ petitioner as Anganvadi Employee at Irular Colony, Chengam Taluk, Thiruvannamalai District, pursuant to the interview attended by the writ petitioner on 20.12.2010.

2. The case of the writ petitioner, as stated in the affidavit filed in support of this Writ Petition is that, she belongs to the Most Backward Community and studied only upto 12th standards, and due to the poor family circumstances, she was not able to do graduation and with great financial difficulty, she completed Diploma Course in Child Education in Vinayaga Mission University in the year 2006. After completing the said course, the writ petitioner registered her name in the employment exchange on 27.06.1997. On 12.12.2010, the writ petitioner received a call letter from the second respondent for the interview to the post of Anganvadi Employee, which was scheduled to be held on 20.12.2010. Pursuant to the said call letter, the writ petitioner attended the interview and produced all the certificates and other required documents before the second respondent, and the second respondent also scrutinized all those certificates and documents and instructed the writ petitioner to wait for some time. Hence, the writ petitioner was under the impression that she would get appointment to the said post. However, all of a sudden, the writ petitioner came to know that the third respondent was appointed to the said post by the proceedings of the first respondent. Challenging the said proceedings, the writ petitioner has filed the present Writ Petition.

3. M/s.P.A. Chithramani, the learned counsel appearing for the writ petitioner has submitted that the Selection Authorities in the call letter issued to the candidates for the post of Anganvadi Employee had made it clear that preference would be given those persons, who belong to MBC and who are residing within the radius of six kilometres from the working place, where, the Anganvadi Centre is situated, viz., at Irular Colony, and in the case of the third respondent, she is not residing within the radius of six kilometres from the place, where, the Anganvadi Centre is situated, as she is residing at Santhanoor Village, which is 12 kilometres away from the Anganvadi Centre, and hence, she is not eligible for appointment to the post. Further, the learned counsel submitted that the third respondent also suppressed certain other facts before the

second respondent for the purpose of obtaining employment.

3.1 The learned counsel submitted that the third respondent remarried one Mr.N.Kumar, who is resident of Sathanoor Village and after the marriage, she is residing in her husband's house at Sathanoor Village, whereas, she alleged before the second respondent that she is resident of Pinchoor Village, which is within the radius of six kilometres from the working place, and the second respondent without considering all these aspects, has appointed the third respondent to the post of Anganwadi employee. Therefore, the learned counsel submitted that the order of appointment passed in favour of the third respondent is not sustainable and liable to be set aside.

4. Mr.B.Anand, the learned Government Advocate appearing for the respondents 1 and 2 submitted that the contentions of the writ petitioner that she possessed required qualification and her certificates were also verified by the second respondent and she was selected to the post of Anganvaid Worker, however, she was asked to wait for some time and contrary to the same, the third respondent was appointed to the post are all false. The learned counsel submitted that since the third respondent was found to be qualified for the post of Angandvadi Worker, as she has completed B.Lit. Degree and aged about 31 years, she was appointed to the said post, which is in terms of the rules and regulations prescribed for the said post, whereas, the writ petitioner is aged only about 29 years, she was not considered. Further, the learned counsel submitted that the second respondent has merely instructed the writ petitioner to wait for some time, and that by itself would not mean to say that he has selected the writ petitioner, and based on surmises and conjectures, the writ petitioner cannot seek appointment. Thus, the learned Government Advocate justified the appointment order issued in favour of the third respondent and prayed for dismissal of the Writ Petition.

5. Mr. P.Mani, the learned counsel for the third respondent while reiterating averments set out in the counter affidavit filed by the third respondent would submit that the third respondent married one Lonathan in the year 2002, who died and subsequently, she married another person by name Mr.N.Kumar, in the year 2010 and though he is a resident of Sathanoor Village, he has been settled at Bangalore, her husband allowed the third respondent to continue to reside with her parents house, situated at Pinchoor Village and she has also produced all relevant documents, viz., Voter ID, Adhar Card, Bank Account, LIC Policy etc., as proof to show that she is a resident of Pinchoor Village. In fact, the third respondent

also produced the nativity certificate issued by the Tahsildar, Chengam, at the time of interview, which would prove that she is a resident of Pinchoor Village and the District Project Officer, Thiruvannamalai, after having considered the same, appointed the third respondent to the said post, vide order dated 26.02.2011, and therefore, the allegation of the writ petitioner that the third respondent is not the resident of Pinchoor Village is baseless.

5. Heard the learned counsel for the parties sides and perused the materials on record, including the counter affidavit filed by third respondent.

6. Though it is the strong argument of the writ petitioner that the 3rd respondent is not residing within 6kms from the village, where the Anganwadi is situated and she has been settled at Bangalore, therefore she is not eligible for the aforesaid post, the 3rd respondent in the counter affidavit filed by her, has stated that all the relevant documents viz., Aadhar Card, Voter ID, Bank Account, LIC Policy etc., have been submitted to prove that she is residing in Pinchoor Village, which is within 6 Kms from Irular Colony, where the Anganwadi is situated and she has also produced the Nativity Certificate issued by the Tahsildar, Chengam at the time of interview.

7. In view of the above, it is for the writ petitioner to prove the allegations made against the 3rd respondent with relevant documents. Therefore, in the absence of the same, this Court cannot accept the allegations made against the 3rd respondent.

8. Considering the aforesaid facts and accepting the submission made by the learned Government Advocate for the respondents 1 and 2 and the learned counsel for the third respondent, this Court does not find any merit in the Writ Petition. If the averment set out in the counter affidavit filed by the third respondent is contrary to the facts, it is open to the writ petitioner to substantiate the same before the Authority concerned by producing necessary documents, and the Authority, after scrutinizing the documents comes to the conclusion that the third respondent is not resident of Pinchoor Villalge, which is not falling within the radius of six kilometres from the working place, he shall take necessary action for cancellation of the appointment order issued in favour of the third respondent and shall consider the writ petitioner in that place, provided, if the writ petitioner qualifies all eligible criteria for the said post.

9. With the above observations, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

sd/ak

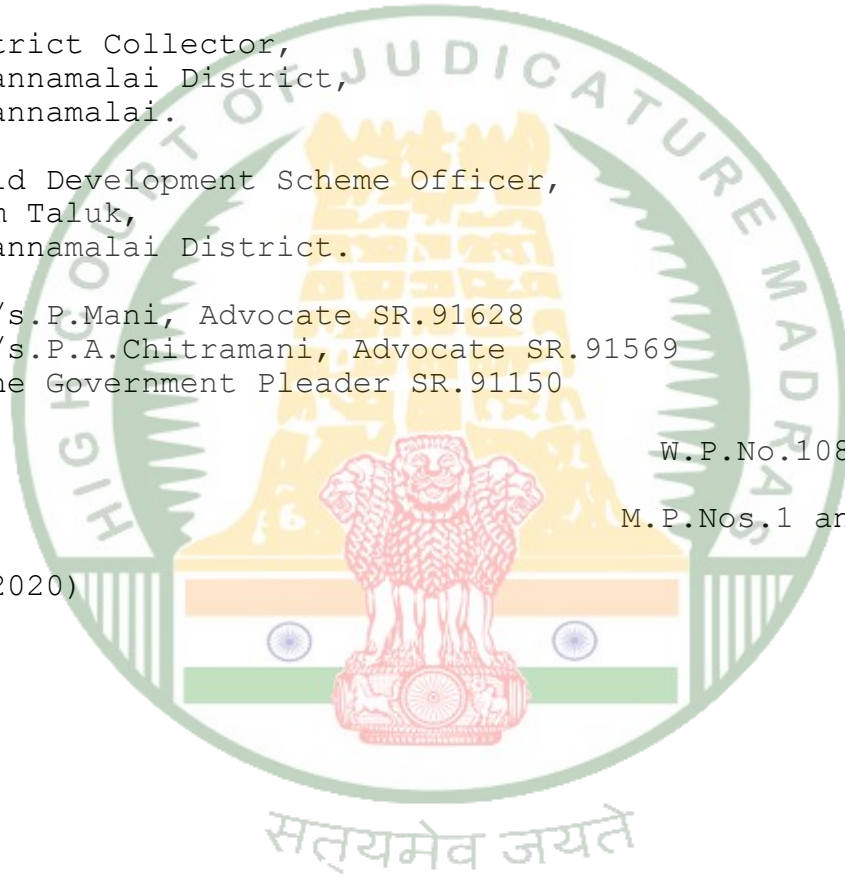
To

- 1.The District Collector,
Thiruvannamalai District,
Thiruvannamalai.
- 2.The Child Development Scheme Officer,
Chengam Taluk,
Thiruvannamalai District.

+1cc to M/s.P.Mani, Advocate SR.91628
+1cc to M/s.P.A.Chitramani, Advocate SR.91569
+1cc to the Government Pleader SR.91150

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CNR(CO)
CB(27/05/2020)



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