IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P.No.21295 of 2004
and
W.M.P.No.25718 of 2004

D.Manimekalai ... Petitioner

Vs

1. The Revenue Divisional Officer,
Cheyyar.

2. The Assistant Elementary
Educational officer,
West Arni,
Arni - 632 301.

3. The District Elementary
Educational Officer,
Thiruvannamalai. ... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to pass an order of Writ of Certiorari, calling for the records relating to the order of the 1st respondent in Na.Ka.No.A4/7090/2003, dated 07.07.2004 and quash the same.

For Petitioner : Mr.M.Kamalanathan

For Respondents : Mr.S.Suresh Kumar,
Government Advocate

O R D E R

The order under challenge in the present writ petition is denial of the petitioner's appointment as Secondary Grade Teacher on the ground that a Residence Certificate evidencing that she hails from Mathura Mannaickenpalayam Village, Thiruvannamali District, is contrary to her original native place of Kattukkanallore village in Arni Taluk.

2. It is seen that pursuant to the direction of this Court to verify the residence of about 117 Secondary Grade Teachers, the second respondent herein had conducted an enquiry, wherein, it was held that the petitioner's original native place is Kattukkanallore Villiage in Arni Taluk and not Mathura Mannaickenpalayam Village in Arni Taluk.

3. According to the second respondent, the petitioner herein had studied her 10th standard in Tirunelveli District; did her secondary grade teachers training at Tirunelveli District; her husband is employed in the Tamilnadu Industrial Explosive Limited, Vellore from the year 1985 onwards; she got married in 1991 at Tirunelveli District; and that her name does not find place in the voters list in the Mathura Mannaickenpalayam village from the year 1994 to 2002. After obtaining her temporary Residence Certificate, she had left to Vellore District. After about 6 months, which is evidenced in the statement of the tenant to whom the petitioner had let out her house, her husband has not been paying service tax and that she is not in possession of family card. The Residence Certificate issued by the Tahsildar in the year 1998 is therefore not true. The Village Administrative Officer had deposed in the enquiry that the petitioner is not resident of the aforesaid village, which was confirmed by the Arni Tahsildar Mr.M.Natrajan and also for the reason that her parents and brothers are well educated and with their help, she had planned to get the Residence Certificate from the place where the vacancy arose.

4. The learned counsel for the petitioner submitted that when the first respondent herein had conducted an enquiry in the Mathura Mannaickenpalayam village, he obtained letters from the Village Administrative Officer as well as the petitioner's house owner in her absence and thereby deprived the petitioner an opportunity to put forth her objection. According to him, the petitioner herein had done her schooling and higher education in Tirunelveli District and even her marriage was celebrated in Tirunelveli District. Since, the petitioner's early schooling and college education was in Tirunelveli District, it cannot be concluded that she was not a resident of Mathura Mannaickenpalayam village .

5. According to the learned counsel, the petitioner's husband is employed in the Government of Tamilnadu undertaking and therefore the question of paying of professional tax will not arise, since the same was deducted by the company itself. Even otherwise, the first respondent has not properly appreciated the earlier community certificate issued by the then Tahsildar, which evidences the residence of the petitioner and which was granted only after conducting due enquiry.

6. The learned Government Advocate on the other hand submitted that the enquiry was conducted pursuant to the order of this Court in

W.P.No.611 of 1999. Pursuant to the directions of this Court, the first respondent herein had given an opportunity to the petitioner and after analysing all the materials produced by the petitioner, the first respondent had come to the conclusion that the Residence Certificate produced by the petitioner was not proper and thereby declared that the appointment of the petitioner based on the Residence Certificate as improper.

7. I have given careful consideration to the submissions made by the respective counsel.

8. The petitioner herein had joined the post of Secondary Grade Teacher in the year 1998. The community certificate produced by the petitioner on 17.12.1998 issued by the Zonal Deputy Tahsildar evidences that the petitioner herein is residing at Mathur Mannaickenpalayam village. After about 6 years from the date on which the certificate was issued, the enquiry has now been conducted. By placing reliance on the academic certificate of the petitioner as well as the marriage conducted at Tirunelveli District, the respondents had come to the conclusion that the petitioner was not a resident of Mathura Mannaickenpalayam Village.

9. Since the petitioner's husband was employed at Vellore and he was not paying the professional tax, the first respondent herein had found that the petitioner is not a resident of the said village I am unable to accept the reasoning arrived by the first respondent. Just because, the petitioner herein did her schooling and teachers education at Tirunelveli District, it cannot be said that she is a resident of the present village in Arni Taluk. The conclusive proof for the petitioner to establish that she is a resident of Mathura Mannaickenpalayam village would be through a residence certificate issued by the Tahsildar.

10. In the instant case, the petitioner had produced an appropriate certificate dated 17.12.1998, which evidences that the petitioner resides within the limits of Mathur Mannaickenpalayam village. Nothing more is required to establish that the petitioner is a resident of the said village, since the said certificate would have been issued, pursuant to an enquiry. The first respondent herein had disbelieved the certificate based on further enquiry conducted by the Village Administrative Officer and the letter of the Tahsildar dated 22.06.2004 confirming the statement of the Village Administrative Officer. Such a finding has been done after a period of almost six years, since the certificate was issued. What was required when the petitioner had taken up the post of Secondary Grade teacher is that she must have been a resident at that relevant point of time in the year 1998. An enquiry conducted after six years and coming to a conclusion that the certificate given eight years earlier is not genuine is unfounded and baseless. Such a conclusion has been arrived on the basis of the statements of the Village Administrative

Officer, which was eight years later. Even if the statement of Village Administrative Officer is accepted, it can only be construed that the petitioner was not a resident of the said village at that point of time in the year 2004. But, it cannot be said that the Residence Certificate produced by the petitioner herein in the year 1998, was not a genuine document. Hence, the reasoning of the first respondent that the petitioner is not a resident of the said village, is based on insufficient materials.

11. It is seen that the petitioner who had taken up an employment of Secondary Grade teacher in the year 1999 has been continuously working under the second respondent herein, for the past almost twenty years. The very purpose of relying upon the Residence Certificate is to ensure that the teacher regularly attends the school, irrespective of the distance of her residence from the school. In the instant case, it is not the case of respondents 2 and 3 that the petitioner has been absenting from duty, because she is residing outside the vicinity of the school. It is also brought to the notice of this court that there is no regulation which stipulates that a Secondary Grade teacher should reside within the limits of the school in which she is employed. The present exercise has been done, pursuant to the interim order of this Court only. The very purpose for which, such a Residence Certificate is required, would be to ensure an appropriate attendance of the teachers to their respective schools. Now that, the petitioner has not been found fault of having absenting herself on the ground of not residing within the limits of the school premises, it would not be appropriate to disturb her service at this point of time.

12. Since the impugned order itself has been made, based on the insufficient evidences and illogical reasoning, the same is liable to be set aside. Consequently, the order dated 07.07.2004 made in Na.Ka.No.A4/7090/2003 on the file of the 1st respondent is set aside. The writ petition stands allowed accordingly. Consequently, connected miscellaneous petition is closed. No costs.

-sd/-
Assistant Registrar

/ TRUE COPY /
Sub-Assistant Registrar

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To

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2. The Assistant Elementary
   Educational officer,
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3. The District Elementary
   Educational Officer,
   Thiruvannamalai.

+1 cc to Governemnt Pleader SR.NO. 37715/2019

+1 cc to MR.M.KAMALANATHAN Advocate SR.NO. 37321/2019

W.P.No.21295 of 2004 and
W.M.P.No.25718 of 2004

nrsk(co)
RD 08/06/2019