

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.06.2019

CORAM:

THE HONOURABLE MR.JUSTICE S. VAIDYANATHAN

W.P.No.54 of 2013

S.Usha

.. Petitioner

Vs

1.The Secretary to Government,
Social Welfare and
Nutritious Meal Scheme -2 Department,
Fort St.George,
Chennai.

2.The District Collector,
Cuddalore District,
Cuddalore.

3.The Commissioner,
Virudachalam Panchayat Union,
Virudachalam, Cuddalore District.

4.S.Meenakumari.

.. Respondents

Prayer: The Writ Petition is filed, under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus calling for records of the second respondent in the proceedings Na.Ka.BD.1/3748/2012 dated 26.09.2012 relating to the appointment of the fourth respondent quash the same and direct the second respondent to appoint the petitioner to the post of organizer in the Panchayat Union Primary School M Agaram Colony.

For Petitioner : Mr.M.Devaraj

For R1 & R2 : Mr.P.Siva Shanmuga Sundaram,
Special Government Pleader

For R3 : Mr.R.S.Selvam

For R4 : Mr.R.Siva Sankar

ORDER

The Petitioner submitted that she has completed 10th standard and applied for the post of Nutritious Meal Organiser called for by the 2nd respondent. The petitioner's claim is that she is a widow and belongs to Scheduled Caste Hindu Adidravidar and socially and economically backward family. The 3rd respondent, on receipt of application of the petitioner, called her for interview on 09.07.2012 and accordingly, she participated in the interview. It is the averment of the petitioner that the 4th respondent who does not fall under the prescribed norms was selected and appointed to the post of Nutritious Meal Organiser.

2. It is submitted by the petitioner that as she belongs to Scheduled Caste community and economically backward, her claim for appointment to the post has to be taken into consideration. In the Government Order issued by the 2nd respondent in G.O.Ms.No.163 Social welfare cum Nutritious Meal Scheme Department dated 18.08.2010, applications had been called for, classifying educational and other qualifications for different categories. According to the Petitioner, the said G.O., has been issued without even considering the protection under Article 16(4) of the Constitution of India and as such the order of appointment of the 4th respondent is liable to be set aside.

3. The petitioner further states that in the appointment to the post of Nutritious Meal Organiser, preference will have to be given to the widow and destitute. It is further stated that G.O.Ms.No.163 Social welfare cum Nutritious Meal Scheme Department dated 18.08.2010, cannot stand in the eye of law as the said G.O., does not give any preference to the category of SC/ST.

4. On the other hand, the learned Additional Government Pleader, appearing for respondents 1 and 2 submitted that G.O.Ms.No.163 dated 18.08.2010, has not been questioned in this writ petition and that there is no illegality or arbitrariness in fixing different qualification for SC/ST and that the petitioner who has failed in 10th standard, is not eligible for appointment to the post of Nutritious Meal Organiser, as per the above G.O.

5. It is also submitted that the 4th respondent is also a scheduled caste candidate and that she has passed 10th standard examination and therefore, the petitioner's challenge to the appointment of the 4th respondent, is not at all acceptable.

6. Heard both sides and perused the records carefully.

7. It is not in dispute that the petitioner has applied to the post of Noon Meal Organiser and questioned the appointment

of the 4th respondent to the said post. The petitioner and the 4th respondent belong to scheduled caste community, however, the 4th respondent has cleared the 10th standard examination and therefore, she has been selected to the above said post, whereas the petitioner has failed in the 10th standard examination.

8. The contentions raised by the petitioner that G.O.Ms.No.163 Social welfare cum Nutritious Meal Scheme Department dated 18.08.2010, is arbitrary and to be set aside, cannot be accepted for two reasons. Firstly, it is open to the authorities to prescribe different qualification for SC/ST candidates. Even assuming for the sake of argument that the contention of the petitioner has to be accepted, the petitioner has not challenged the said G.O. That apart, 4th respondent who has been appointed to the said post also belong to scheduled caste and has cleared 10th standard examination. Hence, looking at from any angle, the challenge made by the petitioner to the appointment of the 4th respondent to the post of Nutritious Meal Organiser, fails and the petitioner is not entitled to any relief in this Writ Petition.

9. Accordingly, the Writ Petitions fails and the same is dismissed. No costs.

Sd/-

Deputy Registrar(CS)

//True Copy//

Sub Assistant Registrar

nvsri

To

1.The Secretary to Government,
Social Welfare and Nutritious
Meal Scheme -2 Department,
Fort St.George, Chennai.

2.The District Collector,
Cuddalore District, Cuddalore.

3.The Commissioner,
Virudachalam Panchayat Union,
Virudachalam, Cuddalore District.

+1cc to Mr.M.Devaraj, Advocate, S.R.No.50003
+1cc to Mr.R.S.Selvam, Advocate, S.R.No.50245
+1cc to the Government Pleader, S.R.No.51196

W.P.No.54 of 2013

VSN II(CO)

RRS (23/07/2019)