



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 04.11.2019
CORAM

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

W.P. (MD) .No.9417 of 2010

WEB COPY

K.Petchiammal

.. Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Personal Assistant
to the District Collector,
(Nutritious Meal Scheme),
Tirunelveli District,
Tirunelveli.

3.The Commissioner,
Vasudevanallur Panchayat Union,
Vasudevanallur,
Sivagiri Taluk,
Tirunelveli District.

4.K.Vijayalakshmi

.. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus calling for the records, entire file pertaining to the impugned order Gna.No.9/85165/2009 passed by the first respondent dated 24.06.2010 and quash the same as illegal and direct the first to third respondents to appoint the petitioner as Nutritious Meal Organiser in Arugankulam Government Primary School, Arugankulam Village, Sivagiri Taluk, Tirunelveli District.

For Petitioner	: Mr.F.X.Eugene
For Respondents	: Mr.D.Muruganandam
1 and 2	Additional Government Pleader
For Respondents 3&4	: Mr.D.Gandhiraj (R3)
	Mr.D.Farjana Ghouse (R4)

O R D E R

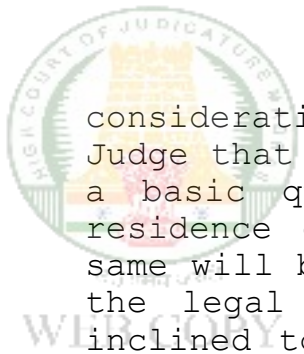
This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus to quash the impugned order passed by the first respondent dated 24.06.2010 appointing the fourth respondent as Noonmeal Organiser in Arugankulam Primary School and to direct the respondent to appoint the petitioner as Nutritious Meal Organiser in the said school.



2.The petitioner states that she is a native of Arugankulam Village in which the Arugankulam Primary School is located. The petitioner applied for the post of Noonmeal Organiser and she admit that she was called for interview on 17.03.2010. The petitioner's grievance is that the petitioner is a women belongs to MBC and residing in the same villave. Since the fourth respondent is residing in some other village, the petitioner states that the respondent ought to have preferred the petitioner than the fourth respondent as per the instruction from the Government. The petitioner further states that the petitioner is a widow and therefore, she ought to have been selected in the place of fourth respondent.

3.It is stated that the petitioner and fourth respondent are MBC candidates and that the post is reserved for MBC (General). It was therefore contented by the learned Additional Government Pleader that no relief can be given to the petitioner who happen to be a widow. With regard to the contention that the petitioner should be given preference on the basis of her residence, the learned Counsel appearing for the petitioner relied upon a judgment of the Hon'ble Division Bench of this Court in the case of ***Aided Primary School, rep. by its Secretary, Correspondent, Dindigul District and others v. District Collector, Dindigul District and others*** reported in ***(2008) 1 MLJ 726***. The judgment of the Hon'ble Division Bench in the said case was in relation to appointment of Noonmeal Organisers in a private aided school. The question of communal rotation or residence was not considered in the said judgment in view of the Government Order specifying that the appointment of Noonmeal Organisers should be from the list of five candidates sponsored by the Management. In the said circumstances, this Court is unable to find any support from the said judgment for the proposition that the petitioner who is residing in the same village should be given preference.

4.The next contention of the petitioner is that priority should be given based on her marital status. It is stated in the counter affidavit that the selection was conducted all over the district. It is stated that the petitioner participated along with others and the appointment of fourth respondent was purely on merits taking into consideration the merits of all the candidates. It is further stated that out of several candidates selected for the post in the district, five candidates have been appointed under the category of widow. The learned Counsel appearing for the petitioner then submitted that preference should be given to the petitioner who is residing in the same village in which the school is located. The learned Single Judge of this Court in ***P.Vasantha and others v. District Collector, Dindigul District, Dindigul and others*** reported in ***(2007) 6 MLJ 402*** has considered the issue whether any preference based on locality should be considered with the exclusion of other



consideration by the department. It was held by the learned Single Judge that preference based on locality is only a preference and not a basic qualification and if selection is solely based on the residence of a candidate to the exclusion of other criteria, the same will be hit by Article 16(2) of the Constitution. In view of the legal position reiterated by this Court, this Court is not inclined to accept the contention of petitioner. No *mala fide* is alleged. No other ground is raised pointing out any irregularity in the selection process. As a result, this Writ Petition is dismissed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar(CS)

SRM

To

- 1.The District Collector,
Tirunelveli District,
Tirunelveli.
- 2.The Personal Assistant
to the District Collector,
(Nutritious Meal Scheme),
Tirunelveli District,
Tirunelveli.
- 3.The Commissioner,
Vasudevanallur Panchayat Union,
Vasudevanallur,
Sivagiri Taluk,
Tirunelveli District.

+1 CC to Mr.F.X.EUGENE, Advocate (SR-96002[F] dated 05/11/2019)
+1 CC to SPL GP (SR-96077[F] dated 05/11/2019)

ORDER MADE IN
W.P. (MD) .No.9417 of 2010
04.11.2019

_MK (26.11.2019) 3P 6C