

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE :02.09.2020

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO. 4640 OF 2013
and
M.P.No.1 of 2013

A.Muthazhagi

.. Petitioner

- Vs -

1. The Secretary to Government
Backward Classes and Most Backward
classes Welfare Department
fort St.George,
Chennai.
2. The Commissioner,
Backward Classes and Most Backward
classes Welfare Department,
Chindadripet,
Chennai.
3. The District Backward Classes and
Minority Welfare Officer,
Cuddalore District,
Cuddalore.

...Respondents

Writ petition filed under Article 226 of the Constitution of India praying this Court to issue a writ Mandamus, directing the 3rd respondent to consider the appointment as cook in the Government Backward Classes Hostel in Cuddalore District according to the seniority and on merits.

For Petitioner : Mr.Vasantham Baskaran for
M/S.Jemmy Vasanth

For Respondents: Mr.S.Thangavel, Spl.G.P. For RR1 to 3

ORDER

The writ petition has been filed by the petitioner, to direct the 3rd respondent to consider the appointment of the petitioner as cook in the Government Backward Classes Hostel in Cuddalore District according to her seniority and on merits.

2.The case of the petitioner is that the petitioner belongs to Schedule Caste Community and studied upto ESLC and registered her name in Employment Exchange in Cuddalore District in the year 1995, her enrolment Number is W/4978/95. Further, it is averred by the petitioner that she has cooking experience as well. In the meanwhile, based on the notification issued by the 3rd respondent, the District Employment Officer sponsored the petitioner's name and other candidates name for the post of cook in the Government Hostels situated in Cuddalore District. The petitioner was called for oral interview, the petitioner appeared before the 3rd respondent on 12.11.2012 and produced all relevant certificates. However she has not received any order or communication from the 3rd respondent thereafter, but the 3rd respondent issued appointment order to nearly 14 candidates by an order dated 18.02.2011 and the remaining posts have not been filled up so far by the 3rd respondent. Thereafter the petitioner made an application under Right to Information Act, wherein the respondents 2 & 3 have narrated the eligibility criteria for the current appointment. Though the petitioner is perfectly qualified to be appointed in the said post of Cook, however the respondents assured the petitioner, that her name will be considered for the future vacancies. However till date no order was passed. Hence the present writ petition is filed with the above said prayer.

3.Learned counsel appearing for the petitioner reiterated the submissions put in the writ petition and contended that so far remaining vacancies have not been filled up by the 3rd respondent, though the petitioner attended interview and produced all relevant certificate, the respondents have not considered her name for appointment to the post of Cook, though junior to her has been appointed. Hence he prays this Court to direct the 3rd respondent to consider the petitioner's last representation dated 16.07.2018 within a reasonable time as fixed by this court.

4.This Court heard the submissions advanced by the learned counsel appearing on either side and also perused the materials available on record.

5.On perusal of the records, it reveals that the facts in the case are not in dispute. Admittedly the petitioner participated in the selection for the post of cook, however she was not selected. Though the other candidates were selected, however the petitioner has not challenged the said selection process conducted by the 3rd respondent, and without challenging the said order of selection, it is not open to the petitioner to seek the relief supra and in such circumstances the prayer as sought for by the petitioner is not maintainable. In the above backdrop of the facts and circumstances of the case, this Court

is of the considered view that no mandamus, as sought for could be issued. However considering the limited request made by the learned counsel for the petitioner, this Court is inclined to direct the 3rd respondent to consider the petitioner's representation dated 16.07.2018, in accordance with law, as expeditiously as possible.

6. With the above direction, this writ petition is disposed off. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

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Cuddalore.

+1 cc to the Government Pleader, Advocate Sr.No. 28836

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SR(co)
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