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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2020

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

W.P. 8905 of 2013

and

M.P. 2 of 2013

Tmt. B.Mariya Stella Mary ... Petitioner

Vs

1. The District Collector,
Cuddalore District.
2. The Commissioner/Block Development
Officer,
Melpuvanakiri Panchayat Union,
Cuddalore District.
3. The Headmaster
Ambalpuram Panchayat Union
Primary School,
Ambalpuram,
Cuddalore District.

4. Selvi P.Revathi ... Respondents

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records connected with the impugned proceedings of the 1st respondent in appointing the 4th respondent as Noon Meal Organiser, in the 3rd respondent school, vide Na.Ka.Pidi.1/3748/2012, dated 26.09.2012 and quash the same and direct the 1st respondent to appoint the petitioner as Noon Meal Organiser in the 3rd respondent school.

For Petitioner : Mr.S.N.Ravichandran

For Respondents : Mrs.M.Jayashree,
Govt. Advocate for R1

Mrs.K.Bhuvaneswari,
Addl. Govt. Pleader for R2

Mrs.V.Annalakshmi,
Govt. Advocate for R3

Mr.A.Muthukumar for R4



was residing at Uluthur, which is 2 kms. away from Noon Meal centre, whereas, the 4th respondent is residing in the very same village viz., Ambalpuram. Since all the four candidates were qualified for the post, the 4th respondent was residing in the same village, where the Noon Meal Centre was situated, and the petitioner was residing at Uluthur Village, which is 2 kms. away from Noon Meal Centre. Considering the relative merits of candidates, the 4th respondent was appointed.

5. The 2nd respondent also filed a separate counter affidavit stating that, the interview was conducted for four candidates, and marks were awarded to all of them based on that, the 4th respondent has obtained highest mark. The 4th respondent is also residing nearby Noon Meal centre, and hence, she was appointed.

6. The 4th respondent also filed a counter affidavit denying the allegations stating that, her father is cultivating 3 acres of land, besides he is cultivating 8 acres of temple land, and also denying the fact that, she is possessing B.Ed. Degree.

7. Mr. S.N.Ravichandran, learned counsel appearing for petitioner would vehemently contend that, as per G.O. Ms.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, one of the qualification for the said post is that, a person, should resides within a radius of 3 kms. from Noon Meal Centre. That apart, the petitioner, who is having highest marks in X std. examination, and also having lesser income than the 4th respondent, and she is residing within 2 kms. from Noon Meal Centre. Without considering all those qualifications, the 1st respondent has appointed the 4th respondent, who does not possess the prescribed qualification. Hence, the impugned order is necessarily to be set aside.

8. The learned Government Pleader appearing for 1st respondent would submit that, the applications were called for fixing the qualification as per G.O. Ms. 163, dated 18.08.2010. Out of 31 applications, 4 candidates were qualified. Since the 4th respondent is residing in the same village, a preference was given. Considering the nature of duty involved in said post, and there is no illegality in the appointment.

9. Mr.A.Muthukumar, learned counsel appearing for 4th respondent has relied upon the judgment of Division Bench of this court in W.A. (MD) Nos. 792, 841, 849 to 855 etc. of 2012 etc. contended that, a preference should be given to the eligible persons residing in the same hamlet. According to the 4th respondent, she is fully qualified to hold the said post, and also residing in the same village, whereas the petitioner is residing 2 kms. away from Noon Meal centre, hence, the 4th respondent was appointed. Hence, there is no illegality in the order passed by the 1st respondent.



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10. I have considered the rival submissions made by learned counsel appearing for petitioner as well as learned Government Advocates appearing for respondents 1 to 3 as well as learned counsel appearing for 4th respondent and perused the records carefully.

11. The appointment to the post of Noon Meal Organisers were made as per G.O. Ms.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010. The basic qualification for appointment was that, the candidates belong to General and Scheduled caste should have minimum educational qualification of passing X Std. and Scheduled Tribe candidate must have a pass / fail in VIII Std. The minimum age limit for General and Scheduled Caste candidate is 21 years and maximum age limit is 40 years. However, the age relaxation can be permitted in case of Scheduled Tribes, widows and destitute women respectively. That apart, the candidate should reside within a radius of 3 kms. from the Noon Meal Centre. Admittedly, the petitioner and the 4th respondent are having all the above prescribed qualification, and they were also called for interview. It is also admitted that, the petitioner is residing 2 kms. away from Noon Meal centre, whereas the 4th respondent is residing nearby Noon Meal centre. The 4th respondent was given preference on the ground that, she is residing in the same hamlet. The object of noon meal centre is to provide meals to the school going children. Further, there is a specific condition in the above said G.O. is that, candidate must reside within a radius of 3 kms. from Noon Meal centre enabling them to reach the school in time, and take care of children. Earlier, the distance criteria imposed in G.O.Ms. 163, dated 18.08.2010 was challenged before the Division Bench of this Court in W.A. 792, 841, 849 to 855 etc. of 2012 etc., and the Division Bench of this Court has upheld the Government Order holding that, a person residing in the same village should be appointed, if nobody available, the eligible person, who is residing nearby village can be appointed. The relevant portion of the judgment reads as follows :-

"52. Moreover, it is not for the first time that the Government have stipulated the distance criterion by way of G.O. Ms. No.163, dated 18.08.2010, in fact, the issue has frequently been referred to the Government for necessary clarifications and in G.O.Ms.No.203, Social Welfare and Nutritious Meal Programme (Social Welfare-7) Department, dated 19.08.2005, the Government have issued such clarification. In the said Government Order, it has been pointed out that when appointments are made for Noon Meal Centres from a radius of 10 kilometers, much time is lost for the person so appointed to commute between such long distance and many a times such person does not turn up for duty, which has been noticed during surprise inspections by the officials. Further, if the person so appointed is



13. With the above observation, this Writ Petition stands dismissed. No costs. Consequently, the connected Miscellaneous Petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

//True copy//

Sub Assistant Registrar

rpp

To

1. The District Collector,
Cuddalore District.
2. The Commissioner/Block Development
Officer,
Melpuwanakiri Panchayat Union,
Cuddalore District.
3. The Headmaster,
Ambalpuram Panchayat Union
Primary School,
Ambalpuram,
Cuddalore District.

+1cc to Mr.A.Muthukumar, Advocate SR.No.23021

+1cc to Government Pleader, High Court, Madras SR.No.23226

W.P. 8905 of 2013
and
M.P. 2 of 2013

MR (CO)
GMY (09/07/2020)