



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2020

CORAM:

THE HONOURABLE MRS.JUSTICE V.BHAVANI SUBBAROYAN

W.P(MD)NO.15071 OF 2012

S.Chandramathi

:Petitioner

vs.

- 1.The District Collector,
Karur District,
Karur.
- 2.The Commissioner,
K.Paramathi Panchayat Union,
Karur District,
Karur.
- 3.Poongothai,
Wife of Balu,
Noon Meal Organizer,
Panchayat Union Primary School,
Thoppampatti - 639 111,
Aravakurichi Taluk,
Karur District.

:Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of declaration declaring that the appointment of the third respondent as Noon Meal Organizer by the first respondent in the Thoppampatti Panchayat Union Primary School is illegal and against the terms and conditions of appointment published by the first respondent.

For Petitioner	:Mr.C.M.Arumugam
For Respondents	:Mr.J.Gunaseelan Muthiah
1 and 2	Addl.Govt.Pleader
For Respondent-3	:No appearance

O R D E R

This Writ Petition is filed seeking issuance of a Writ of declaration declaring that the appointment of the third respondent as Noon Meal Organizer by the first respondent in the Thoppampatti Panchayat Union Primary School is illegal and against the terms and conditions of appointment published by the first respondent.

2.The case of the Petitioner is that the Petitioner has applied for the post of Noon Meal Organizer to the K.Paramathi Panchayat Union Primary School, Thoppampatti, Karur District. The respondents 1 and 2 while inviting applications, have stipulated various qualifications like age and the place of residents for the applicants. Out of this, the primary condition is that for appointment to the post of Noon Meal Organizer, the applicant should reside within the radius of three kms from the place of working. The Petitioner would further submit that she is residing in Thoppampatti Village, which is exactly one km away from the school.



While so, the second respondent by letter, dated 26.6.2012 directed the Petitioner to appear for an interview on 6.7.2012 along with required certificates. After interview and verification of certificates, to her shock and surprise, the third respondent was appointed as Noon Meal Organizer in Thoppampatti Primary School. It is further submitted that the third respondent is residing at Vairamadai at Monchanoor Village which is 18 kms away from the place of working and for official purpose, the third respondent has given temporary address at kachidi Valasu of Vanagapalayam Post, Thennilai which is more than 8 kms from the place of working. It is further submitted that the third respondent will not come within the category of local residents, which is the primary condition for appointment to the Post of Noon Meal Organizer. Therefore the appointment of the third respondent is against law and arbitrary. Further the Petitioner is a coolie nearing the age of 40 and unless the Petitioner was considered for appointment to the said post, she will be put hardship and mental agony. Hence the Petitioner has come forward with this Writ Petition for the relief stated supra.

3. The third respondent has filed a counter affidavit denying all the averments made in the Writ Petition by stating that as per G.O.Ms.No.72, Social Welfare and Nutritious Meal Programme Department, dated 30.4.2012 a notification was issued to fill up the vacancies in all Noon Meal Centres attached with the Government Schools over the State. Pursuant to the said notification, the respondents 1 and 2 accorded permission by proceedings, dated 17.6.2012 to all the Block Development Officers to fill up all the vacancies in the respective panchayat unions within the Karur District. In addition, as per G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.8.2010 prescribed certain criterias for the said post and as per which, the candidates to be appointed as Noon Meal Organizers should study upto 10th standard and the age limit is between 21 to 40 and also that their residence must be within 3 kms from the work place. The third respondent has also applied for the same and the authorities having considered the merit, ability and qualification, has appointed the third respondent as Noon Meal Organizer on 29.8.2012 at Noon Meal Centre of Thoppampatti Panchayat Union Elementary School. Further there are catena of decisions in this regard stating that no person shall be appointed in any public employment based on the place of residence, which will hit Article 14 of the Constitution of India. Therefore, the present Writ Petition is not at all maintainable either in law or on facts and thus prayed for dismissal of the Writ Petition.

4. Heard the learned counsel appearing on either side and perused the materials placed before this Court.

5. This Court while dealing with case of similar nature in W.P (MD) No.14926 of 2010, dated 3.10.2019 held as follows:

<https://hcservices.ecourts.gov.in/hcservices/>



''6. The learned Additional Government Pleader relied upon a judgment of the learned Single Judge of this Court in the case of **P. Vasantha and others Vs. District Collector, Dindigul District and others**, reported in (2007) 6 MLJ 402. The question arose before the learned Single Judge in the said case was regarding the appointment in Anganvadi Centres. The learned Single Judge of this Court held that the residence/locality can be considered only as a preference and it cannot be a qualification by itself. The learned Single Judge has held as follows:

"17. Therefore, if the contentions of the petitioners is to be accepted then the preference should be given solely on the basis of the residence, and that will be hit by Article 16(2) of the Constitution. However, considering the fact that the post requires constant attention towards the children and the availability of the person in a nearby area is preferable and a proximity of distance by the eligible candidates may be constitutionally permissible but the selection cannot be solely on the ground of residential preferences to the exclusion of other criteria has to be accepted as it will hit Article 16(2) of the Constitution. As rightly contended by the official respondents, the proximity of residence/locality is only a preference and not a qualification by itself. Once it is established that none of the selected candidates are otherwise disqualified they cannot be edged out of consideration only on the ground that they were not being the residents of the locality.

18. Further, preferring a candidate from a particular hamlet to the exclusion of candidates from other hamlets in the same Village Panchayat Union or in respect of Panchayat Union Centres preferring the candidates from only one village to the exclusion of other villages living in the same panchayat union may also be arbitrary and in many times, it may also result in violating the communal roster being followed.

7. Article 16 of Constitution of India dealing with equality of opportunity in matters of public employment states that no Citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or



office under the State.

8. The selection of third respondent cannot be set aside on the ground of residence. It is held that weightage given in a selection process on the basis of place of residence is violative of Article 14 of the Constitution of India. In **Harshendra Choubisa Vs. State of Rajasthan** reported in **AIR 2002 (SC) 2879**, it has been held that bonus marks to the applicants belonging to the same District and rural areas of that District would amount to discrimination and violative of Article 14 and 16 of Constitution of India.

9. In view of the legal position settled by this Court and Honourable Supreme Court, the petitioner's contention that petitioner should be preferred to the third respondent, has no legal basis. The petitioner has not demonstrated any other infirmity in the appointment of the third respondent to the post of Noon Meal Organizer. This Court find no merit in this Writ Petition. Accordingly, this writ petition is dismissed and the order passed by the first respondent, dated 11.10.2010 is confirmed. No costs. Consequently, connected miscellaneous petitions are closed.

6. In view of the dictum laid down in the afore-said judgment of this Court, the condition that the applicant should reside within three kms from the place of work need not be followed and it cannot be a qualification by itself and it can be considered only as a preference. If any other candidate found suitable for the said post, then the person from the other hamlet can also be appointed to the said post. In view of the above findings rendered in the above judgement, the relief sought for by the Petitioner has no merit and hence the Writ Petition deserves dismissal.

7. In view of the above discussion, the Writ Petition stands dismissed. No costs.

Sd/-

Assistant Registrar (crl.side)

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Sub Assistant Registrar (CS)

Vsn



To

1.The District Collector,
Karur District,
Karur.

2.The Commissioner,
K.Paramathi Panchayat Union,
Karur District,
Karur.

+1 CC to M/s.SPL.GP (SR-12667[F] dated 20/03/2020)

+1 CC to M/s.C.M.ARUMUGAM, Advocate (SR-12863[F] dated 23/03/2020)

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KB(11.06.2020) 5P 5C