



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2020

CORAM :

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P. (MD)No.4673 of 2017

1)A.Katturaja
2)Thanalakshmi

.. Petitioners

vs.

1)The Director of Elementary School Education,
O/o. The Directorate of Primary Education Department,
College Road, Chennai.

2)The District Elementary School Education Officer,
RMS Road, Madurai.

3)The Secretary to the Government,
Tamil Nadu School Education Department,
Secretariat,
Chennai.

... Respondents

(R3 impleaded vide court order dated 03.04.2017 in WMP.4107/17)

Prayer : Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent herein in his proceedings in O.Mu.No.4950/A1/2016 dated 30.01.2017 and quash the same and further direct the 1st Respondent to appoint the 2nd petitioner in the Elementary School Education Department, on compassionate ground, considering the petitioners' representation dated 09.12.2016.

For Petitioners	: Mr.M.Sendhilkumar
For Respondents	: Mr.N.Shanmugaselvan
	Additional Government Pleader

ORDER

The prayer in this writ petition is for issuance of a Writ of Certiorarified Mandamus, calling for the records of the impugned order passed by the 2nd respondent herein in his proceedings in O.Mu.No.4950/A1/2016 dated 30.01.2017 and quash the same and further direct the 1st Respondent to appoint the 2nd petitioner in the Elementary School Education Department, on compassionate ground, considering the petitioners' representation dated 09.12.2016.

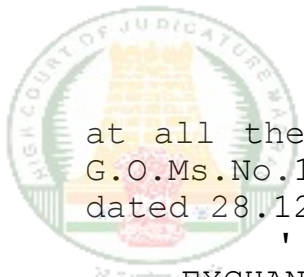


2.The petitioners would state that they owned 40 cents of dry land in S.No.145/5B in 0.16.0 hectares situated in Periyakulam Registration District, Usilampatti Union, Nadupatti Village, under joint patta No.12 which was initially stood in the name of one Petchiyammal, the 1st petitioner's mother under patta pass book No.153887. The petitioners gifted the above land to the Primary School Education Department on 04.10.2006 vide gift deed No.1640/06 in the Usilampatti Sub Registrar Office. In the above land, Kattalaimayan Patti Village Panchayat Union Primary School has been established and run by the Primary School Education Department. In the above school, the buildings for classes I to V Standards were built in a pucca manner by the Kattalaimayanpatti Village Education Committee and about 70 village children are studying in the said school.

3.It is the further case of the petitioners that they belong to denotified community and the 1st petitioner has studied only Vth Standard and he is struggling hard to survive with his wife/2nd petitioner and three children aged 16, 14 and 10 years respectively. The 2nd petitioner has completed SSLC and finding it difficult to meet both ends, the petitioners made an application to the 2nd respondent requesting to provide employment to the 2nd petitioner in the above said school on compassionate ground. Along with the application, the petitioners also enclosed copy of the above said gift deed, 2nd petitioner's SSLC certificate, family ration card, below poverty line certificate. The 2nd respondent by communication dated 22.01.2010 informed his inability to recruit any one in the School Education Department. Subsequently, the petitioners submitted a representation dated 10.11.2016 to the 2nd respondent, but there was no response. Therefore, they made a detailed representation dated 09.12.2016 to the respondents seeking employment opportunity to the 2nd petitioner. But, the 2nd respondent passed the impugned order dated 31.01.2017 rejecting the request of the petitioners, against which, the present writ petition has been filed.

4.Since in the impugned order dated 30.01.2017, the 2nd respondent has stated that he has no power to consider the request of the petitioners, the petitioners made a representation dated 21.03.2017 to the 3rd respondent seeking employment opportunity to the 2nd petitioner. Pending writ petition, the petitioners also filed impleading petition to implead the Secretary to Government, Tamil Nadu School Education Department, Chennai, as 3rd respondent which was allowed on 03.04.2017.

5.The respondents have filed counter affidavit. Learned Additional Government Pleader appearing for the respondents would submit that there is no provision to give appointment on compassionate grounds for donation of the land to the Government and therefore, the request of the petitioners has been rejected and if



at all the petitioners are aggrieved, they can seek remedy as per G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976 which states as follows:-

'ANNEXURE PRIORITY FOR EMPLOYMENT THROUGHLY EMPLOYMENT

EXCHANGES:

Group II

v) Members of family including members of Scheduled Castes/Scheduled Tribe, whose lands have been acquired for Government purposes as well as for the project of the Public Sector Undertakings subject to the condition that preference should be given to those who are dependant for their livelihoods primarily or wholly on the lands acquired and from among them to members of the Scheduled Castes and Scheduled Tribes who may be eligible for employment.'

6. Therefore, the learned Additional Government Pleader would state that the petitioners ought to have claimed priority in recruitment through the employment exchange only and if at all the 2nd petitioner is aggrieved, she can register herself in the employment exchange for getting priority as per G.O.Ms.No.188 instead of requesting appointment on compassionate grounds as the scheme of compassionate appointment is to alleviate the sufferings of the members of the family of the deceased employee who are in indigent circumstances.

7. Heard the learned counsel for the petitioners as well as the respondents.

8. It is an admitted fact that the petitioners' land has been donated to the School Education Department and due to poverty, the 1st petitioner seeks appointment for his wife/2nd petitioner who has completed SSLC and she has also registered herself in the employment exchange and the registration number is W/154/2010. The petitioners had given their land for a good cause and the school is also effectively working in the premises. In my considered opinion, though the 2nd petitioner is not entitled to seek appointment on compassionate grounds, yet she is always eligible to claim priority in appointment as per G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976.

9. Therefore, the 2nd petitioner is directed to give a detailed representation to the 3rd respondent as per G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976 within two weeks from the date of receipt of a copy of this order and thereafter, taking into consideration the good intention of the petitioners and their present poverty situation, the 3rd respondent shall consider the claim of the 2nd petitioner by taking note of her registration in the employment exchange and give her appointment in a suitable post and such an exercise shall be completed within a period of twelve weeks from the date of receipt of the representation.



With the above direction, the writ petition is disposed of. No costs.

Sd/-

Assistant Registrar (co)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

bala/gns

To

1)The Secretary to the Government of
Tamil Nadu School Education Department,
Secretariat,
Chennai.

2)The Director of Elementary School Education,
O/o. The Directorate of Primary Education Department,
College Road, Chennai.

3)The District Elementary School Education Officer,
RMS road, Madurai.

+1 CC to Mr.M.SENDHILKUMAR, Advocate (SR-11920[F] dated
16/03/2020)

ORDER MADE IN
W.P.(MD)No.4673 of 2017
DATED : 16.03.2020

VB (01.12.2020) 4P 5C