



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.03.2021

CORAM:

THE HONOURABLE MRS.JUSTICE PUSHPA SATHYANARAYANA

AND

THE HONOURABLE MRS.JUSTICE S.KANNAMMAL

W.A(MD)NO.508 OF 2012

and

M.P(MD)No.1 of 2012

against

WP(MD)No.11721 of 2005

B.Saraswathy Amma

:Appellant/Petitioner

.vs.

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Personal Assistant to the District
Collector,
Nutritious Meal Scheme,
The District Collector's Office,
Nagercoil.
3. The Panchayat Union Commissioner,
Melpuram Panchayat,
Melpuram, Kanyakumari District.
4. The Government of Tamil Nadu,
represented by its Secretary,
Department of Social Welfare and Nutritious
Meal Programme,
Fort St.George,
Chennai-9.

: Respondents/Respondents

PRAYER: Writ Appeal filed under Clause 15 of the Letters Patent Act praying this Court to set aside the order passed by this Court in W.P(MD)No.11721 of 2005, dated 28.11.2011.

Prayer in WP(MD). 11721 of 2005 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, any other writ, direction, or order in the nature of a writ, calling for the records of the 1st respondent pertaining to his order in Na.Ka.Lal/89327/2005 dated 21.11.2005, the records of the 3rd respondent, pertaining to his consequential order in Na.Ka.No.A7/1247/2005 dated Nil-11/2005, signed on 25.11.2005, and the records of the 4th respondent pertaining to its orders in G.O.(St) No.142, Social Welfare and Nutritious Meal



Programme (Sa Na 7 (1)) Department, dated 06.07.2010 and G.O.(St) No.163, Social Welfare and Nutritious Meal Programme (Sa U Thi.2) Department, dated 18.08.2010, (Prayed amended vide order dated 10/06/2011 in MP.2/2011) quash the same insofar as the same relate to the petitioner's Higher Secondary School Arumanai, Kanyakumari District directing the second respondent to appointment nutritious meal organizer for the said school in accordance with G.O. Ms.No.294 Social Welfare and Nutritious Meal Programme (NMP I) Department, dated 20.11.1993.

For Appellant	:Mrs. Maria Vinola for M/s.K.N.Thambi
For Respondents 1,2 and 4	:Mr.K.P.Narayanakumar Special Govt.Pleader
For Respondent-3	:No appearance

JUDGMENT

[Judgment of the Court was made by **PUSHPA SATHYANARAYANA, J.**]

This Writ Appeal is directed against the order made in W.P(MD) No.11721 of 2005, dated 28.11.2011, in dismissing the Writ Petition filed by the Writ Petitioner/appellant herein.

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

3.The Writ Appellant is one Saraswathy Amma, who is the Manager and Correspondent of the Higher Secondary School at Arumanai, Kanyakumari District, who had challenged the order passed by the first respondent and the consequential order of the third respondent, dated 25.11.2015 and to quash the same and also issue a direction to approve the appointment of one Thiru.S.Dennis as Nutritious Meal Organizer w.e.f. 1.7.2005 and the said Writ Petition was dismissed by the learned Single Judge. Aggrieved by the same, the above Writ Appeal is filed.

4.In this regard G.O.Ms.No.1317(CMNPC)Department, dated 8.8.1984 would be relevant. As per the said Government Order, the original procedure for appointment of Cooks and Helpers was modified and the Government had passed the following Order:

'2.With the expansion of the Chief Minister's Nutritious Meal Programme to the School Children upto the age of 15, from 15.9.94 orders have been issued for appointment of Nutritious Meal Organizer, Cooks and Helpers in the Centres to be newly opened. The Government direct that Personal Assistant(C.M.N.M.P) to the Collectors shall be the appointing authority for the



Nutritious Meal Organizer in respect of Government Schools. In respect of aided schools, the Manager or the Correspondent will issue the appointment orders for the candidates selected by the Selection Committee. In respect of Cooks and Helpers, the Deputy Inspector of Schools shall be the appointing authority for the Centres to be newly opened as well as for filling up the future vacancies also arising in school Centres. In respect of aided schools, the Manager or the Correspondent will appoint the candidates selected by the Deputy Inspector of Schools.''

5. Thereafter, another Government Order was passed in G.O.Ms.No.294, Social Welfare and Nutritious Meal Programme (NMP.1) Department, dated 21.10.1993. It would be worth-while to extract the said Government Order, which reads as follows:

ORDER

In para 7(f) - (a) to © of the G.O., first read above, Government have prescribed the following procedure for appointment of Nutritious Meal Organizers in the minority /non minority aided School Centres:--

(a) For each minority/non minority School, the Manager or the Correspondent will send a proposal of five names to the Collector for appointment as Nutritious Meal Organizers following the existing conditions of appointment;

(b) In drawing up the panel, the Government Policy of giving one job to one family should be kept in mind.

(c) The Collectors shall give approval to any one of the names recommended by the Managements of the Schools and communicate his approval to the Management of the concerned School and thereafter the Management will issue appointment orders.

2. In the D.O letters second and third read above, the Collectors of Chidambaranar District has requested the Government to modify the above procedure for appointment of Nutritious Meal Organizer in minority/non minority aided schools empowering the District Collectors to appoint a suitable candidate in management/aided school Nutritious Meal Centres, if the panel is not received within a reasonable time from the Correspondents/Managers. He has further reported that the High Court of Madras in W.P.No.13732 of 1992, has delivered a judgment that the Correspondents of the aided schools have no right to claim in the



administration of Nutritious Meal Programme which are entirely run by the Government because the entire expenses for the Scheme are borne by the Government.

3. The Government have examined the above suggestion in detail. For the smooth functioning of Nutritious Meal Programme in private aided schools, Government have issued orders giving the powers to the Correspondent for issue of appointment orders to the candidates selected by the Personal Assistant(NMP) to Collector. But Government have noticed in several occasions that, there is a frequent friction between the management of the school and the Nutritious Meal Organizers which causes a big hindrance to the smooth functioning of the scheme. Further, in certain cases, the Manger/Headmasters are not allowing the Nutritious Meal Organizers selected by the Collectors to work as Nutritious Meal Organizers in their schools. In order to overcome such difficulty and with a view to simplify the procedure, the Government have now decided to constitute a Selection Committee for the appointment for Nutritious Meal Organizers, in the minority/non minority School Centres.

4. Accordingly, the Government now direct that the procedure for the appointment of Nutritious Meal Organizers in the minority/non minority aided School Centres, mentioned in para 7(f) - (a) to © of G.O.Ms.No.918, Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Department, dated 3.11.1989 be modified by constituting a Selection Committee with the following persons for appointing Nutritious Meal Organizers in the minority/non minority aided School Centres;-

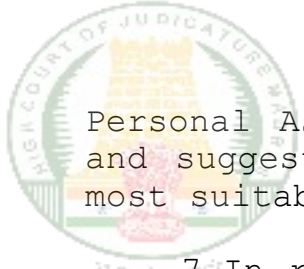
Personal Assistant(NMP) to Collector -Chairman

Correspondent/Headmaster of the
concerned School -Member

Commissioner of the concerned
Panchayat Union -Member

The appointment order will be issued in the name of Personal Assistant(NMP) to the Collector.''

6. While the above was the procedure for appointment of Noon Meal Organizer by the minority or non-minority schools, in the case on hand, one Vamadevan, who was appointed as Nutritious Meal Organizer in the Petitioner/appellant school retired from service on 30.11.2005. Quoting the above referred G.O.Ms.No.1317, dated 8.8.1984, the School had sent a panel of five persons to the

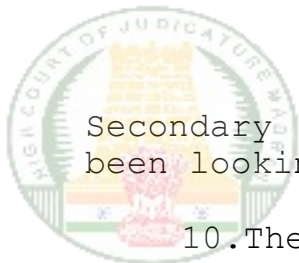


Personal Assistant to the District Collector, Kanyakumari District and suggested and recommended the name of Thiru.S.Dennis, as the most suitable candidate for the said post.

7. In response to the same, a reply was sent on 21.11.2005 and in that reply, it was stated that as per G.O.Ms.No.294, dated 21.10.1993, the Correspondent had nothing to do with the appointment of the Nutritious Meal Organizer and it is only the Committee formed by the Government is empowered to appoint the said post and accordingly, one Sarasam, who is working as Noon Meal Organizer in Government Girls Middle School, Arumanai was deputed to hold additional charge in that place and she also had taken charge of the same. The said order of appointment, dated 25.11.2005 and the proceedings of the Panchayat Union Commissioner, dated 25.11.2005 deputing one Sarasamma as Noon Meal Organizer for the Government Higher Secondary School, Arumanai are challenged by the Writ Petitioner/Appellant.

8. A reading of G.O.Ms.No.294 has specifically modified the procedure for appointment of Noon Meal Organizer in minority or non-minority Aided Schools from the earlier procedure of sending a panel of five names to the District Collector and choosing one among them as Noon Meal Organizer. As per the modification, the Government Order empowers the District Collector to appoint suitable candidate in the Management or aided or even minority schools. The said Government Order also quoted the order of this Court in W.P.No.13732 of 1992, wherein, it has been categorically held that the Correspondents of any aided schools or minority schools have no right to claim in the administration of the Noon Meal Programme which are entirely run by the State Government and the expenses are also borne by the State Government. In fact, a Selection Committee was formed by the State Government including the Personal Assistant to the District Collector, the Commissioner of the same Panchayat Union along with the Correspondent or Headmaster of the concerned School. It was made clear that the appointment will be made only in the name of Personal Assistant to the District Collector. In the instant case, the erstwhile Noon Meal Organizer Vamadevan retired from service on 30.11.2005 and the District Collector, Kanyakumari District had specifically sent response to the Writ Appellant that as per G.O.Ms.No.294, dated 21.10.1993 and also as per the order passed by the High Court in W.P.No.13732 of 1992, one Sarasamma was deputed to the appellant-School to hold full additional charge of the said post. The said communication was sent to the appellant School on 24.11.2005. The appellant has once again recommended the name of Mr.Dennis to be appointed in the place of the said Vamadevan, who retired from service and also stated that the charges have been handed over to the said Dennis.

9. In the counter affidavit filed by the third respondent/Melpuram Panchayat Union, it has been stated that Mrs. Sarasamma, who is working as Noon Meal Organizer in the nearby Government Girls Middle School, Arumanai has been given full additional charge and to take care of the Government Girls Higher



Secondary School, Arumanai and she has also taken charge and has been looking after the Noon Meal Centre.

10. The learned Special Government Pleader appearing for the respondents 1, 2 and 4 is not able to say whether any appointment has been made instead of Mrs. Sarasamma, who was given full additional charge as Noon Meal Organizer for the Government Girls Higher Secondary School, Arumanai.

11. In the light of the above facts, if no approved appointment is made as Noon Meal Organizer in the appellant/School till today, it is open to the parties to follow the procedure as set out in G.O. Ms. No. 294, dated 21.10.1993. If anybody is already appointed and their appointment is already approved, the question of fresh appointment does not arise.

12. With the above direction, the Writ Appeal is disposed of. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

Vsn

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate / litigant concerned.

To

1. The District Collector,
Kanyakumari District,
Nagercoil.
2. The Personal Assistant to the District
Collector,
Nutritious Meal Scheme,
The District Collector's Office,
Nagercoil.
3. The Panchayat Union Commissioner,
Melpuram Panchayat,
Melpuram, Kanyakumari District.



4. The Secretary,
Government of Tamil Nadu,
Department of Social Welfare and Nutritious
Meal Programme,
Fort St.George,
Chennai-9.

+1 CC to MR.K.N.THAMPI, Advocate (SR-11363[F] dated 16/03/2021)

+1 CC to SPL GP (SR-11847[F] dated 17/03/2021)

JUDGMENT MADE IN
W.A(MD) NO.508 OF 2012
and
M.P(MD) No.1 of 2012
16.03.2021

VB (07.04.2021) 7P 7C