



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.04.2021

C O R A M

WEB COPY

THE HONOURABLE MR.JUSTICE P.D.AUDIKESAVALU

W.P.(MD)No.1810 of 2013
and
M.P.(MD) No.1 of 2013

Mareeswari

... Petitioner

Vs.

1.The District Collecor,
Thoothukudi District,
Thoothukudi.

2.The District Project Officer,
Integrated Child Development Scheme Office,
Thoovipuram,
Thoothukudi.

3.Krishnaveni

... Respondents

PRAYER: Writ Petition filed under Article 226 of the constitution of India, to issue a Writ of Certiorarified Mandamus calling for the records relating to the impugned appointment order made in Che.Mu.Na.Ka.No.1389/A1/2012, dated 24.07.2012 passed by the second respondent, quash the same, further directing the Respondents 1 and 2 to appoint the Petitioner as Assistant (Cook) in Veerapatti Anganwadi Centre at Veerapatti, Muthulapuram Post, Ettaiyapuram Taluk, Thoothukudi District with all attendant benefits.

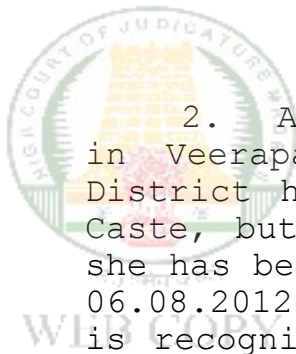
For Petitioner : Mr.S.Ramu

For Respondents 1 & 2 : Mr.M.Jayakumar
Additional Government Pleader

For Respondent 3 : No appearance

ORDER

Heard Mr.S.Ramu, Learned Counsel for the Petitioner, Mr.M.Jayakumar, Learned Additional Government Pleader for the First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.



2. According to the Petitioner, the post of Assistant (Cook) in Veerapatti Anganwadi Centre, Ettaiyapuram Taluk, Thoothukudi District has been reserved for persons belonging to the Scheduled Caste, but the Third Respondent belongs to 'Hindu Nadar' caste and she has been illegally issued Community Certificate No.7277429 dated 06.08.2012 as if she belongs to Hindu Adi Dravidar Community, which is recognized as a Scheduled Caste and was selected to that post. In this backdrop, the appointment of the Petitioner made in Order Che.Mu.Na.Ka.No.1389/A1/2012, dated 24.07.2012 issued by the Second Respondent is challenged and consequential direction has been sought to the First and Second Respondents to appoint the Petitioner as Assistant (Cook) in Veerapatti Anganwadi Centre at Veerapatti, Muthulapuram Post, Ettaiyapuram Taluk, Thoothukudi District with all attendant benefits.

3. It is now settled position of law after the formulation of the scheme by the Hon'ble Supreme Court of India in **Kumari Madhuri Patil -vs- Additional Commissioner, Tribal Welfare** (AIR 1995 SC 94) that in the absence of legislation to the contrary, any one claiming status of Scheduled Caste or Scheduled Tribe for availing benefits of reservation of posts conferred by the Constitution has to necessarily hold a certificate to that effect issued by the concerned authority and its verification would also have to be made in the manner prescribed thereunder and such determination would be conclusive. In the State of Tamil Nadu, the verification of Scheduled Caste Certificate would have to be made by the concerned District Level Vigilance Committee in terms of G.O. (2D) No. 108 Adi Dravidar and Tribal Welfare (CV-I) Department dated 12.09.2007, which has been issued pursuant to the aforesaid binding ruling of the Hon'ble Supreme Court of India, which holds the field.

4. The Respondents have produced the Community Certificate No. 7277429 dated 06.08.2012 issued by the the Tahsildar, Mylapore - Triplicane Taluk, Chennai that the Third Respondent belongs to Hindu Adi Dravidar Community, which has been recognized as a Scheduled Caste. As such, it is borne out from the record that the Third Respondent possesses the requisite Schedule Caste Community Certificate for holding the post of Assistant (Cook) for whom the said post has been reserved.

5. In the aforesaid circumstances, if the Petitioner wants to impeach the claim of the Third Respondent that she belongs to Scheduled Caste, she has to make necessary application before the District Level Vigilance Committee for verification of the Schedule Caste Community certificate of the Third Respondent and the entitlement of the Third Respondent to continue in the post of Assistant (Cook) in Veerapatti Anganwadi Centre at Veerapatti, Muthulapuram Post, Ettaiyapuram Taluk, Thoothukudi District would obviously be dependent upon its outcome. However, till the Scheduled Caste Community Certificate of the Third Respondent is not



cancelled by the competent authority, the question of setting aside the selection of the Third Respondent to the post of Assistant (Cook) in Veerapatti Anganwadi Centre at Veerapatti, Muthulapuram Post, Ettaiyapuram Taluk, Thoothukudi District, does not arise. This view is fortified by the rulings of the Hon'ble Supreme Court of India in the decisions in **Kurapati Maria Das -vs- Dr. Ambedkar Seva Samajan** [(2009) 7 SCC 387], **Ayaubkhan Noorkhan Pathan -vs- State of Maharashtra** [(2013) 4 SCC 465], **Bharati Reddy -vs- State of Karnataka** [(2018) 6 SCC 162] and **District Collector, Satara -vs- Mangesh Nivrutti Kashid** [(2019) 10 SCC 166] where the aforesaid course of action to be followed in such matters has been reiterated.

6. In the upshot, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petition is closed. No costs.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

SRM

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,
Thoothukudi District,
Thoothukudi.

2.The District Project Officer,
Integrated Child Development Scheme Office,
Thoovipuram,
Thoothukudi.

+1 CC to M/s.SPL GP (SR-15829[F] dated 15/04/2021)

+1 CC to M/s.R.KARTHIC RAJAN, Advocate (SR-16018[F] dated 16/04/2021)

W.P. (MD)No.1810 of 2013

09.04.2021