



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.09.2021

CORAM:

THE HONOURABLE MR.JUSTICE **D.KRISHNAKUMAR**

W.P. (MD)No.2733 of 2019

and

W.M.P. (MD)No.2074 of 2019

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St.Joseph's R.C.Middle School,
Kamuthi - 623 603,
Ramanathapuram District,
Represented by its Correspondent,
Rev.Fr.R.Justin Draviam

... Petitioner

vs.

1.The State of Tamil Nadu,
Represented by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai - 09

2.The District Collector,
Office of the District Collectorate,
Ramanathapuram,
Ramanathapuram District.

3.The Chief Educational Officer,
Office of the Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

4.The Commissioner,
Kamuthi Panchayat Union,
Kamuthi,
Ramanathapuram District.

5.Tmt.P.Shanthi,
Panchayat Union Primary School,
Ilanthaikulam, Kadaladi Taluk,
Ramanathapuram District.

... Respondents

PRAYER: Writ Petitions filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed in Na.Ka.A5/4480/2018, dated 31.12.2018, on the file of the Respondent No.4 and quash the same as illegal to the extent of transferring and posting the Respondent No.5 as the Noon Meal Cook at the



petitioner's Minority School and consequently to direct the Respondent Nos.2 to 4 to fill up the vacant post of Noon Meal Cook at the petitioner's Minority School by following G.O.Ms.No.4, Social Welfare and Noon-meal Scheme Department, dated 06.01.2011.

For Petitioner : Mr.S.Louis

For R-1 to R-3 : Mr.S.Shanmugavel,
Standing Counsel for the State

For R-4 : No Appearance

O R D E R

This Writ Petition has been filed by the petitioner, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to impugned order passed in Na.Ka.A5/4480/2018, dated 31.12.2018, on the file of the respondent no.4 and quash the same as illegal to the extent of transferring and posting the respondent no.5 as the Noon Meal Cook at the petitioner's Minority School and consequently to direct the respondent nos.2 to 4 to fill up the vacant post of Noon Meal Cook at the petitioner's Minority School by following G.O.Ms.No.4, Social Welfare and Noon-meal Scheme Department, dated 06.01.2011.

2. Heard the learned counsel appearing for the petitioner and the learned Standing Counsel appearing for the respondents 1 to 3.

3. By consent of both parties, this writ petition is taken up for final disposal at the admission stage itself.

4. According to the petitioner, it is a minority institution, which is imparting education for more than 300 students belonging to the rural community. In the Noon Meal Centre attached with the petitioner school, the post of Noon Meal Cook was lying vacant. While so, the 4th respondent herein vide impugned order dated 31.12.2018 transferred the a Noon Meal Cook without following the procedure contemplated in G.O.Ms.No.4 Social Welfare and Noon-meal Scheme Department, dated 06.01.2011. Being minority school, the petitioner school has the right to administer the school and recommend 5 names after conducting selection process and thereafter only, the 2nd respondent who is competent authority shall issue appointment order. However, without following the due procedure as per the said G.O., at his own discretion, the 4th respondent has appointed the Noon Meal Cook, which cannot be sustained.



5. On behalf of the 4th respondent, a counter affidavit has been filed, wherein, in para 5, it is has been stated as under:

''5.It is submitted that as ordered by the District Collector, Ramanathapuram vide Roc.No.W1/53488/2018 dated 20.12.2018, the Noon Meal Centres having less than 25 children were disbanded and amalgamated with nearby Centre and that the vacancy thus arose were filled up by counseling mode. Insofar the student strength of Panchayat Union Primary School, Ilanthikulam fell down to 22, the centre was closed and amalgamated with the nearby school centre. Hence the 5th respondent who was working as Cook in Ilanthikulaam centre was transferred on deputation to the petitioner school which is only a stop-gap measure since the post of cook is vacant in the petitioner's school for the past two years and as and when regular recruitment is made, the petitioner school will be notified as vacant and the post will be filled up by strictly following the mandate of G.O. Ms.No.4, Social Welfare and Noon Meal Programme Department dated 06.01.2011. Appointment of Noon Meal Worker cannot at all be done in a piecemeal manner for individual school and that only on receiving orders from the Government as well as the Head of Department, action can be initiated to fill up the vacancies. But the petitioner herein on misconstruing the issue, refused to permit the 5th respondent from joining as Cook in the Noon Meal Centre centre concern to the administration. Hence, the petitioner herein is not entitled for the discretionary relief of this Hon'ble Court and the petition itself is liable for dismissal''.

6. Therefore, the Noon Meal Centres having less than 25 children were disbanded and amalgamated with nearby Centre and that the vacancy thus arose were filled up by counseling mode. Insofar the student strength of Panchayat Union Primary School, Ilanthikulam fell down to 22, the Centre was closed and amalgamated with the nearby School Centre. Hence, the 5th respondent who was working as Cook in Ilanthikulaam Centre was transferred on deputation to the petitioner school which is only a stop-gap measure since the post of Cook is vacant in the petitioner's school for the past two years and as and when regular recruitment is made, the petitioner school will be notified as vacant and the post will be filled up by strictly following the mandate of G.O. Ms.No.4, Social Welfare and Noon Meal Programme Department dated 06.01.2011.



7. In view of the above, no further adjudication is necessary in the present Writ Petition. However, taking note of the fact that the post of Noon Meal Cook has been lying vacant, the petitioner school shall take steps to fill up the same and send proposals to the 2nd respondent for approval.

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8. The Writ Petition is disposed of with the above observation. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

- 1.The Principal Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George,Chennai - 09
- 2.The District Collector,
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- 5.Tmt.P.Shanthi,
Panchayat Union Primary School,
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Ramanathapuram District.

+1 CC to M/s.GP (SR-28513[F] dated 08/09/2021)

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