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W.A.(MD)No.889 of 2018

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 07.04.2021

CORAM

THE HONOURABLE MR.JUSTICE T. S. SIVAGNANAM

AND

THE HONOURABLE MRS.JUSTICE S.ANANTHI

W.A. (MD)No.889 of 2018
and C.M.P. (MD) No.5673 of 2018
against
WP (MD)No.89 of 2010

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Kilapavur Panchayat Union,
Tenkasi Taluk,
Tirunelveli District.

... Appellants/Respondents

Vs.

Hindu Middle School,
Rep. by its Secretary,
S.Neelambiga,
Kilapavur Union,
Tenkasi Taluk,
Tirunelveli District.

... Respondent/Petitioner

Prayer : Appeal filed under Clause 15 of the Letters Patent against the order passed by this Court in W.P.(MD)No.89 of 2010, dated 10.12.2013.

Prayer in WP(MD). 89/ 2010 :

Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a WRIT OF CERTIORARIFIED MANDAMUS, calling for the records pertaining to the order passed by the second respondent in his proceedings in A6/1480/2009 dated 26-08-2009 and quash the same and consequently direct the respondents to appoint any one of the persons from among the list sent by the petitioner's school as a Cook.

For Appellants : Mr.Sricharan Rangarajan
Additional Advocate General
Assisted by Mr.K.P.Krishnadoss
Special Government Pleader

For Respondent : Mr.V.Panneer Selvam



J U D G M E N T

(Judgment of the Court was delivered by T. S. SIVAGNANAM, J.)

This Writ Appeal by the State is directed against the order dated 10.12.2013, made in W.P.(MD) No.89 of 2010, by which, the Writ Petition was allowed.

2. Similar Writ Petitions were filed in W.P.(MD) No.7981 of 2012 etc., batch and by a common order dated 17.10.2012, the said Writ Petitions were allowed. Writ Appeals were filed against the said order by the Government and one such appeal is Writ Appeal (MD) No.858 of 2012 and the said Writ Appeal was allowed by a common judgment dated 21.08.2013, by the Division Bench of this Court. The operative portion of the said judgment reads as follows:-

"86. In the light of the decisions and discussion, we hardly find any irrationality, arbitrariness or unreasonableness, behind the above stipulation made in G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011. According to us, there is basis for classification, reasonableness and clear nexus, between the classification and the object sought to be achieved. Legislature or the Government has a wide discretion in making the classification and the impugned G.O., does not reflect hostile discrimination against a class of persons. Therefore, G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011, imposing different procedure for appointment in the Nutritious Meal Centre of Government Aided Minority School and Nutritious Meal Centre of Government Aided Non-Minority School is not hit by Articles 14 or 16 of the Constitution of India.

87. Therefore, we are of the considered view that the writ Court has not considered the issue in its right perspective, and it has committed an error in law by quashing G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011.

88. In view of our above decision, the validity of the said criteria i.e. imposing different procedure for appointment for Government Aided Minority School and Government



Aided Non-Minority School vide G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011 is upheld.

89. In view of our above conclusions,

(i) Writ Appeal (MD) Nos.792 of 2012, 849 to 855 of 2012, 924 to 933 of 2012, 62 of 2013 and 63 of 2013 filed by the State are ALLOWED and the common order passed by the Writ Court in W.P.(MD)Nos.4451 of 2012 etc., batch, dated 01.10.2012, is set aside.

(ii) Writ Appeal (MD) No.841 of 2012 is filed by one M.Meenalakshmi, challenging the common order of the Writ Court dated 01.10.2012, passed in W.P.(MD)Nos.4451 of 2012 etc., batch. Ms.M.Meenalakshmi filed writ petition No.4817 of 2012, challenging the rejection of her claim for appointment as Anganwadi worker, on the ground that there are three addresses with regard to her residence and all of those addresses are not within 3 kms from the Anganwadi Centre as anganwadi appointments are given only to those persons who are residing within 3 kms from the anganwadi centre. The grievance of Ms.M.Meenalakshmi is that though the Writ Court has set aside the eligibility criteria stipulated in G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010 with regard to place of residence i.e, within 3 kms, failed to give a specific direction to the State to appoint her as Anganwadi Worker. As we have now set aside the order of Writ Court dated 01.10.2012, passed in W.P.(MD)Nos.4451 of 2012 etc., batch, holding that the distance between the place of appointment and the residence of the applicant should be within three kilometers as stipulated in G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010 is valid, the prayer sought for by the appellant/Ms.M.Meenalakshmi cannot be countenanced and the Writ Appeal (MD) No.841 of 2012 is DISMISSED.

(iii) Writ Appeal (MD) No.858 of 2012, filed by the State is ALLOWED and the common order passed by the Writ Court in W.P.(MD) Nos.7981 of 2012 etc., batch, dated 17.10.2012, is set aside. "



3.Following the same, the Writ Appeal is allowed. Consequently, connected Miscellaneous Petition is closed. No costs.

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Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

sj

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,
Tirunelveli District,
Tirunelveli.

2.The Commissioner,
Kilapavur Panchayat Union,
Tenkasi Taluk,
Tirunelveli District.

+1 CC to SPL GP (SR-15501[F] dated 08/04/2021)

+1 CC to MR.V.PANNEER SELVAM, Advocate (SR-15507[F] dated 08/04/2021)

W.A. (MD)No.889 of 2018
07.04.2021

KM (18.05.2021) 4P 5C