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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 23.08.2021
CORAM:
THE HONOURABLE MR.JUSTICE **S.S.SUNDAR**
W.P.(MD)No.13455 of 2017
and
W.M.P.(MD)Nos.10519 and 10520 of 2017

Leka Bharathi ... Petitioner

vs.

1.The District Collector,
Virudhunagar District, Virudhunagar.

2.The Commissioner,
Srivilliputhur Panchayat Union,
Virudhunagar District.

3.Mary Venmani Selvi ... 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 appointment order passed by the second respondent in his proceedings in Na.Ka.No.A5/646/2017, dated 12.05.2017 and quash the same as illegal and consequently, to direct the respondents 1 and 2 to appoint the petitioner as Noon Meal Organizer in CSI Primary School, Athikulam, Srivilliputhur Taluk, Virudhunagar District.

For Petitioner : Mr.T.Lenin Kumar
For R1 : Mr.K.S.Selvaganesan
Government Advocate
For R2 : Mr.S.Chandrasekar
For R3 : Mr.M.Jothi Basu

*****

O R D E R

This Writ Petition is filed for issuance of a Writ of Certiorarified Mandamus, to quash the impugned order passed by the second respondent, dated 12.05.2017 and to direct the respondents 1 and 2 to appoint the petitioner as Noon Meal Organizer in CSI Primary School, Athikulam, Srivilliputhur Taluk, Virudhunagar District.

2.Heard Mr.T.Lenin Kumar, learned Counsel for the petitioner, Mr.K.S.Selvaganesan, learned Government Advocate for the first respondent, Mr.S.Chandrasekar, learned Counsel for the second respondent and Mr.M.Jothi Basu, learned Counsel for the third respondent.

3.The petitioner is a physically challenged woman. The petitioner has produced before this Court the certificate issued by the District Disabled Rahabilitation Officer, Thoothukudi,

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estimating the petitioner's disability as 50%. It is the case of the petitioner that she applied for the post of Noon Meal Organizer in the CSI Primary School, Athikulam, Srivilliputhur Taluk, Virudhunagar District. It is also stated that more than 15 candidates have applied for the same post. It is the case of the petitioner that she is the only candidate, who participated in the process of selection with disability. In other words, it is contended by the petitioner that she, being a preferential candidate comes under the priority category, should be given employment. However, the third respondent was appointed as Noon Meal Organizer in the School, by the second respondent, vide impugned order, dated 12.05.2017. Challenging the the same, the present Writ Petition is filed with the above prayer.

4.The first respondent filed counter affidavit inter alia pointing out the entire selection process. It is admitted that 16 persons have applied for the job and out of 14 persons including the petitioner, who attended the interview, the first respondent appointed the third respondent. It stated by the first respondent that on the basis of G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, the third respondent alone was nominated by the Minority School, to which the third respondent was appointed as Noon Meal Organizer.

5.G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, states that the appointment to the post of Noon Meal Organizer should be made by the District Collector. The process of selection involves advertisement inviting applications from eligible candidates, who are qualified to the post of Noon Meal Organizer. It is the prerogative of the Minority School to recommend any five names of candidates, who have been interviewed by respondents and found eligible. Out of the list of five recommended by the management, the District Collector shall give employment to one. It is made clear that for the post of Noon Meal Organizer in minority Schools, communal and roster need not be followed. It is not in dispute that the appointment was in respect of Minority School. Therefore, G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, is applicable to the present case.

6.Though G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, was challenged before this Court earlier in a batch of Writ Petitions, a learned Single Judge of this Court, reported in ***CDJ 2011 MHC 5777***, in the case of ***R.Alagar Samy and others vs The District Collector, Virudhunagar District and others***, dismissed the Writ Petitions. However, a direction was issued to the Government to withdraw G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, on the ground that it has changed the appointment process of Noon Meal Organizer in the centre attached to Minority School. However, the same

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Government Order vide G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, was subsequently upheld by a Honourable Division Bench of this Court in a batch of Writ Appeals in W.A.(MD)No.107 of 2013 and batch, in the case of ***The State of Tamil Nadu and another vs M.Chandra***, by an order dated 28.10.2020.

7.Since the process of selection, as recommended vide G.O.Ms.No.4, Social Welfare cum Noon Meal Scheme Department (NMP), dated 06.01.2011, is upheld by this Court, this Court has no hesitation to hold that the process of selection in the present case cannot be falted. It is the case of the respondents that the petitioner was not recommended by the Minority School and that therefore, there is no scope for entertaining this Writ Petition filed by the petitioner. The learned Government Advocate appearing for the first respondent is right, as the petitioner, who has not been selected or recommended by the Management, cannot find herself aggrieved.

8.It is to be noted that the petitioner has not even impleaded the School in which the third respondent was appointed. In such circumstances, this Court cannot pass an order disturbing the appointment of the third respondent, as that will affect the interest of the School atleast to the extent of their right to recommend the name of third respondent as one of their choices. The petitioner, who is not the favourable candidate of the Minority School, cannot maintain a Writ Petition without even impleading the Minority School in which the third respondent was appointed as Noon Meal Organizer.

9.For all the reasons stated above, this Writ Petition is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2021

Sub Assistant Registrar(CS)

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To

The District Collector,Virudhunagar District, Virudhunagar.

+1 CC to M/s.G.M.LAW OFFICE, Advocate (SR-27069[F]dated 24/08/2021)

+1 CC to M/s.GP (SR-27166[F] dated 25/08/2021)

W.P.(MD) No.13455 of 2017

23.08.2021

RD(31.08.2021) 3P 4C

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