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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.02.2022

Coram

THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN
AND
THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.A.No.174 of 2022
and CMP.No.1232 of 2022

1. The District Collector
Dharmapuri District, Dharmapuri.
 2. The Personal Assistant
to the District Collector (Noon Meal Scheme),
Dharmapuri District,
Dharmapuri. ... Appellants
- Vs
- 1.S.Yogaraj
 - 2.The Commissioner,
Panchayat Union,
Harur, Dharmapuri District. ... Respondents

Prayer:Writ appeal is filed under clause 15 of the Letter Patent praying to set aside the order dated 24.02.2020 made in WP.No.4031 of 2020 and allow the Writ Appeal.

Prayer in WP.No.4031 of 2020: Writ Petition filed under Article 226 of the Constitution of India, praying to issue a writ of Certiorarified Mandamus, to call for the records relating to the impugned order of the 2nd respondent dated 03/12/2019 made in A.Thi.Mu.No. 20735/2019/X1 and the consequential order passed by the 3rd respondent dated 21/01/2020 made in Na.Ka.No.113/2019/A4 and to quash the same and consequently direct the respondents to provide appointment on compassionate ground to the petitioner for the death of his father sivaraj son of Nangan who died on 15/01/2019 in a suitable post.

For Appellants : Mr.Um. Ravichandran
Special Govt.Pleader

JUDGMENT

(Judgement of the Court was made by S.VAIDYANATHAN, J.)

Instant writ appeal is directed against the order dated 24.02.2020 made in W.P.No.4031 of 2020.



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2. The present writ appeal has been preferred by the District Collector, Dharmapuri against the order of the learned Single Judge contending that G.O.Ms.198 dated 25.10.2007 and another G.O.Ms.78 dated 25.10.2016 were not taken note of.

3. By consent of both the parties the writ petition was heard by the learned Single Judge and there is no iota of evidence to show that the aforesaid G.Os. have been placed before the learned Single Judge.

4. The learned Special Government Pleader appearing for the appellants submitted that there is an order of this Court dated 27.08.2019 in W.P.(MD)No.3603 of 2015 wherein it is stated that the policy decision of the Government to appoint female candidates in the Noon Meal Centres, wherein the children below 5 years are maintained has got a reasoning.

5. A reading of the judgment would make it very clear that the G.O.Ms.198 was considered by the learned single Judge and G.O. was put to test in the said writ petition. Whereas in the present case on hand, there is no reference with regard to G.O.Ms.198 dated 25.10.2007 and the other G.O.Ms.78 dated 25.10.2016 has been brought to the attention of this Court by the Government. Since the G.Os. were not brought to the attention of this Court, the learned Single Judge has rightly held that the compassionate appointment of the candidate has got to be considered. There is no dispute with regard to the decision referred to by the appellant herein dated 27.08.2019 which may not be applicable to the present case on hand as G.O.Ms.198 has been referred to only in the grounds of appeal and not before the learned Single Judge. That apart, this Court strongly reprimands the act of the Government in making a statement before this Court that the learned Single Judge failed to give sufficient opportunity. If there was no opportunity given and the G.O. which has been referred to was not considered, the Government should have preferred a review. Secondly, the averments in the grounds of appeal is nothing but an attempt to indirectly make allegations against the learned single Judge and this Court finds it unnecessary and expect the Government to refrain from making such grounds in future. This being the first case which has been brought to our attention, we are not inclined to proceed against the Government officials and in case, we come across similar plea later definitely action will be taken against the concerned person.

6. In the result, the writ appeal is dismissed. It is open to the appellants to file a review by placing grounds of appeal filed before this Court as one of the documents in the typed set of papers. If any such review is filed, it is for the learned



Single Judge to decide the matter based on the available materials uninfluenced by what is observed herein above. No costs. Consequently connected miscellaneous petition is also closed.

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Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

dpq

To

1.The Commissioner,
Panchayat Union,
Harur,
Dharmapuri District

2.The District Collector
Dharmapuri District,
Dharmapuri.

3.The Personal Assistant
to the District Collector (Noon Meal Scheme),
Dharmapuri District,
Dharmapuri.

+1cc to the Government Pleader, S.R.No.8033

W.A.No.174 of 2022

SS (CO)
SB (09/03/2022)