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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2022

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THE HONOURABLE MR.JUSTICE MOHAMMED SHAFFIQ

W.P. No.3216 of 2011
and
M.P.Nos 1 and 2 of 2011

M. Prema

...Petitioner

Vs.

1. The District Collector,
Dharmapuri
2. The Children Development
Planning Officer (Rural)
Dharmapuri District.

3. Manjula

...Respondents

PRAYER:Writ Petition filed under Article 226 of the Constitution of India, praying to issue a Writ of certiorari to call for the records of the 1st respondent in his proceedings in Lr.No.1442/A1/2008 dated 28.12.2010 and quash the same.

For Petitioner : Mr.R. Rajarajan

For Respondents-1 and 2 : Mr.P. Anand Kumar
Government Advocate

For Respondent-3 : No Appearance.

ORDER

This writ petition was filed to call for the record of the 1st respondent in his proceedings in Lr.No.1442/A1/2008 dated 28.12.2010 and quash the same.

2.The learned counsel for the petitioner submits that the respondent had notified the vacancy for the post of Noon-meal organizer in the Anganvadi centre at Thathanur-pudur and the qualification prescribed for the appointment to the post of Noon Meal Organiser is that the candidate must have completed 8th standard and must reside within 10 to 15 kms from the Noon Meal



centre. The petitioner had completed H.S.C during the Academic Year 1999-2000 and is residing within the residential limit prescribed. Admittedly the petitioner belongs to SC community and her husband is a coolie and is the sole bread winner of the family. It is the submission that the petitioner was called for interview with all the certificates and she had attended the interview along with all the certificates.

3. Whiles, the petitioner came to understand that the 3rd respondent has been appointed for the post of Noon Meal Organiser vide proceedings dated 28.12.2010. It is the case of the petitioner that the 3rd respondent is not a qualified person to the post of Noon Meal Organizer. Challenging the appointment of the 3rd respondent vide order dated 28.12.2010, the petitioner has filed this present writ petition.

4. It is submitted by the learned counsel for the respondent that the Government vide G.O.Ms.No.186 dated 04.10.2007 had sanctioned 1539 new additional Anganwadi Centres and 3168 Mini Anganwadi centres. It is further submitted by the learned counsel for the respondent that seven candidates had applied for post of Thathanur Pudur Center (Mini) which includes the 3rd respondent and the petitioner. The seven candidates were called for interview. Based on the interview and the records furnished by the candidates they were short listed and the 3rd respondent being the resident of the same panchayat aged about 24 years was selected and appointed on the basis of the following:

a) The Third Respondent was aged about 24 years and a resident of the same panchayat, in terms of the G.O. Ms. 203 dated 19.08.2005 which prescribes that candidates who reside within the same village panchayat should be given first preference and then only others must be considered.

b) The performance and attitude of the 3rd respondent was found by the selection committee to be very good.

5. To the contrary, even in terms of averment contained in the affidavit filed in support of the writ petitioner, it is only stated that the candidate must be residing within the 10-15 kms from the Noon Meal center and the petitioner is residing within the residential limit prescribed by the authorities. There is not even an averment that she belongs to the same village panchayat.

6. Thus the appointment of the 3rd Respondent from the same hamlet/panchayat which satisfies the eligibility criteria, cannot be found fault with much less being found illegal.

7. It may also be relevant to note that a Learned Single Judge of this Court has referred to a Division Bench Order of this Court in W.A.No. 146 of 2021 wherein G.O.Ms.203 and the



distance criteria prescribed therein was examined and found to be justified. The relevant portion of the order is extracted hereunder:

"23. Moreover, it is not the for the first time that the Government has stipulated the distance criterion by way of G.O.Ms.No.163 dated 18.08.2010. In fact, the issue has frequently been referred to the Government for necessary clarifications and in G.O.Ms.No.203 Social Welfare and Nutritious Meal Programme (Social Welfare -7) Department dated 19.08.2005, the Government has issued such clarification. In the said Government Order, it has been pointed out that when appointments are made for Noon Meal Centres from a radius of 10 kilometres, much time is lost for the person so appointed to commute between such long distance and many a times such persons does not turn up for duty, which has been noticed during surprise inspections by the officials. Further, if

the person so appointed is not a resident of that village, he / she seeks transfer to a different panchayat / district and such matters are often litigated upto the High Court, which hampers, the effective functioning of such noon meal Centre. Taking into consideration such difficulties faced, the Government issued the following clarifications in the aforesaid G.O.:-

1.Wherever there is vacancy in any Noon Meal Or Anganwadi Centre, eligible persons residing in the same hamlet should be appointed.

2.Where qualified persons are unavailable in the hamlet, eligible persons from other neighbouring hamlets under the same village panchayat should be selected. If even such persons are not available, then qualified persons from other panchayats, not beyond the distance of 10 kilometres surrounding the said panchayat should be selected.

3.As far as Municipalities / Corporations are concerned eligible persons from the same ward where there is vacancy should be selected, and on the unavailability of persons there, eligible persons from the nearby ward should be considered, and if even such persons are not eligible, then persons from the same Division should be selected.

From the above, we are clear in our mind that the Government has tried its utmost to evolve a pragmatic solution while appointing Noon Meal Organisers from places nearer to the Noon Meal Centres and the distance



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critrion has been rightly fixed taking into account the practical difficulties faced while appointing persons belonging to far off places".

5. In view of the submissions made on behalf of the learned counsel for the petitioner and the learned Addl.Govt.Pleader as well as the learned counsel for the 3rd respondent and upon perusing the pleadings, this Court is of the view that though the impugned order is liable to set aside, however, considering the fact that the 3rd respondent has already been appointed as Noon Meal Organizer as early as in 2014 and thereafter, she has been transferred to another neighbouring place, her appointment need not be disturbed at this distant point of time. Even otherwise, the Administration is not going to be prejudiced in transferring the 3rd respondent to a different Noon Meal Organizer in the same panchayat. Therefore, considering the peculiar facts and circumstances of the case, the first respondent is directed to consider the claim of the petitioner for appointment as Noon Meal Organizer in Netteri Kandigai Panchayat Union Elementary School, Tiruttani Panchayat Union and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of this order.

8. In view of the afore stated reasons this Court finds no merit in this Writ Petition. Before concluding it may be relevant to note that even assuming the petitioner satisfies the eligibility criteria, there cannot be a right to appointment nor is there any illegality in the appointment of the 3rd respondent. In this regard it may be useful to refer the following Judgments:

1. S. Renuka v. State of A.P., (2002) 5 SCC 195 : 2002 SCC (L&S) 689 : 2002 SCC OnLine SC 388 at page 202

8. It is settled law that no right accrues to a person merely because a person is selected and his or her name is put on a panel. The petitioners have no right to claim an appointment.

2 . Vinodan T. v. University of Calicut, (2002) 4 SCC 726 : 2002 SCC (L&S) 606 : 2002 SCC OnLine SC 514 at page 732

14. The principle that persons merely selected for a post do not thereby acquire a right to be appointed to such post is well established by judicial precedent. Even if vacancies exist, it is open to the authority concerned to decide how many appointments should be made.

