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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.04.2022

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THE HON'BLE MR. JUSTICE P.D. AUDIKESAVALU

W.P. No. 15984 of 2018

and

W.M.P. Nos. 19014 and 19015 of 2018

K. Ambika

... Petitioner

-vs-

1. The District Project Officer,
Integrated Child Development Scheme,
Dharmapuri,
Dharmapuri District.
2. The Child Development Project Officer,
Integrated Child Development Scheme,
Morappur Region,
Morappur, Dharmapuri District.

3. Kalaivani

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus to call for the records relating to the impugned order of the First Respondent in Se.Mu.Na.Ka.No. 539/A1/2017 dated 09.02.2018 and quash the same and direct the First Respondent to appoint the Petitioner as Mini Anganwadi Worker, in the Anganwadi Centre, Thippampatti, Kariamangalam Taluk, Dharmapuri District in the place of the Third Respondent with effect from the date of the impugned order namely 09.02.2018 and grant her all consequential benefits.

For Petitioner : Mr. P.Manoj Kumar

For Respondents: Mr. V.Arun

Additional Advocate General assisted by

Mr. Vadivelu Deenadayalan
Additional Government Pleader(for R1 and R2)

Mr. G.Prabhakar (for R3)



O R D E R

Heard Mr. P.Manoj Kumar, Learned Counsel for the Petitioner and Mr. V.Arun, Learned Additional Advocate General assisted by Mr. Vadivelu Deenadayalan, Learned Additional Government Pleader appearing for the First and Second Respondents and Mr. G.Prabhakar, Learned Counsel for the Third Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner and the Third Respondent had applied for the post of Mini Anganwadi Worker in Anganwadi Centre, Thippampatti Village, Karimangalam Taluk, Dharmapuri District and the Third Respondent had been selected to that post, which has been challenged by the Petitioner in this Writ Petition.

3. The contention raised in the Writ Petition is that the Petitioner is a resident of the same hamlet in which the Anganwadi Centre is located, but the Third Respondent, who is not a resident of that hamlet has been selected to that post. It has been highlighted that in terms of clause 3.8 of G.O. (Ms) No. 110, Social Welfare and Nutritious Meal Programme (SW7) Department dated 14.05.2012 based upon which the selection was made, it is only when candidates residing within the same hamlet are not available, selection of candidates from neighbouring Panchayats within a radius of 10 kms could be made. In view of the factual dispute raised, this Court by order dated 23.03.2022 had required the District Collector, Dharmapuri to verify as to whether the residences of the Petitioner and the Third Respondent were situated within the same hamlet at the time of making the application for the said post after issuing notices to the concerned parties and produce the entire records relating to comparative assessment of the Petitioner and the Third Respondent for suitability for appointment in this case.

4. In furtherance to the said order, Second Respondent has filed additional Counter-Affidavit dated 25.04.2022 in which it has been stated as follows:-

"3. I submit that the vacancy for the post of Mini Anganwadi worker, Thippampatti Center situated within the Thippampatti hamlet lying with in Banni Kulam Revenue Village, and Bannuikulam Panchayat reserved for General-NON Priority and I further submit that totally 6 candidates were applied and they were called for interview, 6 candidates appeared interview on 12.09.2017, among the applicants, writ Petitioner alone applied from the Thippampatti hamlet itself. I submit that other 5 applicants residing from different Village panchayat and Town panchayats.



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4. I submit that the marks obtained by the writ Petitioner and Third Respondent as given below:-

S. No	Category	Ambika/ Petitioner	Kalaivani/ Third Respondent
1	SSLC PASS- 5 Marks	5	5
2	Two children- 10 One child- 9 No child- 8	10	10
3	Distance-5 1 km-5 2 km-3 3 km-2	5	2 different panchayat
4	Age-5 Upto 40 years- 5 30-38- 4 marks 21-29- 3 marks	4	3
5	Family situation-5 No children-5 Children under 18-5 Female income generating- 4 Men income generating - 3	5	5
6	Physical fitness-5	2	5
7	Knowledge in ICDS-5	2	5
	Total 50	33/50	35/50

5. I submit that interview panel assessed the overall performance of the candidate's for the scale of 50, since the Third Respondent, resident of Kadambarahalli hamlet, lying within Vagurappanpatti Revenue Village, and Vagurappanpatti Village Panchayat had secured higher marks, she was appointed to Mini Anganwadi center at Thippam patti Hamlet.

6. I submit that other candidates namely residence and marks as given below;

(i) Mrs. Saraswathi- Kambainallur Town panchayat- 33 marks

(ii) Mrs. Iswarya- Kambainallur Town panchayat-30



marks

(iii) Mrs. Kala- Vagurappampatti Village Panchayat- 32 marks

(iv) Mrs. Vijayalakshmi- Vagurappampatti Village Panchayat- 37 marks

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7. I submit that on facts available from official records, I issued notice to parties 22.04.2022, the Writ Petitioner and Third Respondent received the notice, both were present during measurement. The Petitioner 300 meters from Mini Anganwadi Center Thippampatti Hamlet, situated within Banni kulam Revenue Village as per VAO Bannikulam Village certificate dated 22.04.2022. And the Third Respondent residing 2.7 kms in the Kadambarahalli Hamlet, Vagurappanpatti Revenue Village and Panchayat as per certificate issued by VAO Vagurappanpatti (different Panchayat), dated 22.04.2022."

5. It is evident from the materials borne out of the records that since the Petitioner was the only candidate, who was a resident of the Thippampatti Village, where the Anganwadi Centre is located, she ought to have been appointed in the said post though the Third Respondent had secured higher marks than her in the interview. This view taken is fortified by the Division Bench of this Court in K.Lakshmi -vs- District Collector, Cuddalore (Order dated 31.07.2017 in W.A. No. 2728 of 2012) in that regard. In such circumstances, the appointment of the Third Respondent by the impugned Order in Se. Mu. Na. Ka. No. 539/A1/2017 dated 09.02.2018 passed by the First Respondent, which cannot be sustained, is set aside. The concerned authorities shall immediately pass necessary orders for appointing the Petitioner to the post of Mini Anganwadi Worker in terms of clause 3.8 of G.O. (Ms) No. 110, Social Welfare and Nutritious Meal Programme (SW7) Department dated 14.05.2012. In order to avert any disruption of the functioning of the Anganwadi Centre, it shall be incumbent upon the concerned authorities to make necessary arrangements in that regard and they are not precluded from continuing the services of the Third Respondent till the Petitioner joins duty in the said post.

6. The Petitioner has not complied with the requirement in the order dated 23.03.2022 to produce the fixed deposit for Rs. 5,000/- in the name of the Registrar-General of this Court to show her bonafides. However, taking into account that the selection of the Third Respondent has been set aside, it would not been necessary for the Petitioner to comply with that requirement in this case.



In the result, the Writ Petition is ordered on the aforesaid terms. Consequently, the connected Miscellaneous Petitions are closed. No costs.

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Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Project Officer,
Integrated Child Development Scheme,
Dharmapuri,
Dharmapuri District.
2. The Child Development Project Officer,
Integrated Child Development Scheme,
Morappur Region,
Morappur, Dharmapuri District.
3. The Registrar General,
High Court, Madras-104
4. The Sub Assistant Registrar, Account Section,
High Court, Madras-104

+1cc to the Government Pleader, S.R.No.30977

W.P. No. 15984 of 2018

VG-II(CO)
CT 12/05/2022