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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

CORAM

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

W.P. No. 17496 of 2018
and
W.M.P. No. 20775 of 2018

M.Prabha

... Petitioner

-vs-

1. The Secretary,
Government of Tamil Nadu,
Social Welfare Department,
Fort Saint George,
Chennai-600 009.
2. The District Collector,
Thiruvannamalai District.
3. The Child Development Scheme Officer,
Pudupalaiyam Union,
Thiruvannamalai District.
4. G.Nishandhi

... Respondents

Prayer:- Writ Petitions filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the records relating to the selection list published by the Second Respondent for the post of Chief Anganwadi Worker for the year 2017 dated 19.01.2018 in so far as it relates the selection of Fourth Respondent as Chief Anganwadi worker in District serial No.412 Union serial No. 12 at Puduppalaaiyam Union Periyari Anganwadi Center and quash the same and direct the Second Respondent to select the Petitioner to the said post of Chief Anganwadi Worker.

For Petitioner : Mr. S.S.Vasudevan for Mr. D.Dhayalan

For Respondents: Mr. V.Arun
Additional Advocate General assisted by
Mr. P.Gurunathan
Additional Government Pleader(For R1 to R3)

No appearance (For R4)



O R D E R

Heard Mr. S.S.Vasudevan, Learned Counsel for the Petitioner and Mr. V.Arun, Learned Additional Advocate General for First to Third Respondents and perused the materials placed on record, apart from the pleadings of the parties.

2. Though the Fourth Respondent has been served, she has not entered appearance either in person or through Counsel.

3. This Court during the earlier hearing on 23.03.2022 had passed the following self-explanatory order:-

"2. The Petitioner and the Fourth Respondent had applied for the post of Chief Anganwadi Worker in Puduppalaiyam Union Periyeri Village, Thiruvannamalai District and the Fourth 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 Fourth Respondent, who is not a resident of that hamlet has been selected to that post. It has been highlighted that in terms of clause 2.8 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, 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 and the decision of 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) has been cited in that regard.

4. Though the Third Respondent has filed Counter-Affidavit, it is bereft of details as to whether the residence of the Fourth Respondent is situated within the same hamlet.

5. Since a factual dispute is raised, the Second Respondent shall verify as to whether the residences of the Petitioner and the Fourth 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 file a report in that regard and produce the entire records relating to comparative assessment



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of the Petitioner and the Fourth Respondent for suitability for appointment in this case.

6. In order to show bonafides, the Petitioner shall produce an interest fetching fixed deposit receipt for Rs. 5,000/- from any Nationalized Bank in Chennai in the name of the Registrar-General, Madras High Court, Chennai and hand over the same to the Registry of this Court under written acknowledgment by 06.04.2022 and in the event the contention of the Petitioner is found to be false, it shall be forfeited and on the contrary, if the contention of the Petitioner is true, the Petitioner would not only be entitled to refund, but further costs from the Respondents."

4. In furtherance to the said order, the Third Respondent has filed the additional Counter-Affidavit dated 11.04.2022 stating that the Petitioner and the Fourth Respondent reside in the same Village in which the Anganwadi Centre is located. It has also been brought to notice in the comparative assessment of merits of the candidates in the interview, the Petitioner has secured 38 marks while the Fourth Respondent has obtained 48 marks. As such, there does not appear any justification to interfere with the impugned order in the exercise of discretionary powers of judicial review of the decision-making process under Article 226 of the Constitution.

5. The fixed deposit for Rs. 5,000/- in the name of Registrar-General of this Court which has been handed over by the Petitioner in the Registry to show her bonafides in compliance of the order dated 23.03.2022 passed by the Court shall stand forfeited as she has not substantiated the challenge to the appointment of the Fourth Respondent in the Writ Petition. The amount lying in such fixed deposit shall be transferred to the Tamil Nadu State Legal Services Authority as costs realized from the Petitioner in this case.

In fine, the Writ Petition is dismissed with costs. Consequently, the connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS-VI)

//True Copy//

Sub Assistant Registrar

gd



To:

1. The Secretary to Government of Tamil Nadu,
Social Welfare Department,
Fort Saint George,
Chennai-600 009.
2. The District Collector,
Thiruvannamalai District.
3. The Child Development Scheme Officer,
Pudupalaiyam Union,
Thiruvannamalai District.

Copy to:

1. The Registrar General,
High Court, Madras.
2. The Member Secretary,
Tamil Nadu State Legal Services Authority,
North Fort Road,
High Court Campus,
Chennai - 600 104.

+1cc to the Government Pleader, S.R.No.26780

W.P. No. 17496 of 2018

AK-II(CO)
SU(11/05/2022)