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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.04.2022

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

W.P. No. 17501 of 2018

and

W.M.P. Nos. 20779 and 20780 of 2019

P.Nirainjiyam

... Petitioner

-vs-

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

3. T.Jaya

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India praying 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, Malaiyurkadu, Nallampalli 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. P.Gurunathan
Additional Government Pleader(For R1&R2)

No appearance (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 appearing for First and Second Respondents and perused the materials placed on record, apart from the pleadings of the parties.

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

3. Learned Counsel for the Petitioner states that he has not received instructions from the Petitioner in the matter.

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

" Though notice had been served on the Third Respondent, she has not entered appearance till date. Learned Counsel for the Petitioner states that the Third Respondent would be informed under written acknowledgment that the Writ Petition challenging her appointment would be taken up for hearing.

2. The Petitioner and the Third Respondent had applied for the post of Mini Anganwadi Worker in Anganwadi Centre, Malaiyurkadu, Nallampalli 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, 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.



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4. Though the First and Second Respondents have filed Counter-Affidavit dated 13.08.2018, it is bereft of details as to whether the residence of the Third Respondent is situated within the same hamlet.

5. Since a factual dispute is raised, the District Collector, Dharmapuri District shall 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 file a report in that regard and produce the entire records relating to comparative assessment of the Petitioner and the Third 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 Second Respondent has filed the additional Counter-Affidavit dated 11.04.2022 stating that the Petitioner is a resident of Malaiyurkadu where the Anganwadi Centre is located, but the Third Respondent resides at Muthupusaliyur Village which is not the same hamlet where the Anganwadi Centre is located. In such circumstances, the selection of the Third Respondent cannot be upheld.

5. However, it has been brought to notice by Learned Additional Advocate General appearing for the First and Second Respondents that in the interview, another candidate from Malaiyurkadu, viz., M.Saritha, had secured 44 marks but the Petitioner has secured 43 marks. In such circumstances, the Petitioner cannot be appointed after setting aside the appointment of the Third Respondent. Since the said M.Saritha has not challenged the selection of the Third Respondent and Learned Counsel for the Petitioner has not received any instructions from the Petitioner, no useful purpose would be



served by keeping the Writ Petition pending indefinitely.

In fine, the Writ Petition is dismissed with the aforesaid observations. Consequently, the connected Miscellaneous Petitions are closed. No costs.

Sd/-
Assistant Registrar(CS-III)

//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,
Nallampalli Region,
Nallampalli, Dharmapuri District.

Copy to

1. P.Nirainjiyam, W/o. R.Kumar,
5/38, Malaiyurkadu,
Moolakadu P.O.,
Thoppur Via, Nallampalli Taluk,
Dharmapuri District.
2. T.Jaya, W/o. Durai,
Mini Anganwadi Worker,
Malaiyurkadu Mini Anganwadi Centre,
Nallampalli Taluk,
Dharmapuri District.

+1cc to Mr.P.Rajendran, Advocate, S.R.No.25994

+1cc to the Government Pleader, S.R.No.26781

W.P. No. 17501 of 2018

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