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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20-06-2022

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WP No.18718 of 2014

And

MP No.2 of 2014

R.Santhi

.. Petitioner

vs.

1.The Director,
Employment and Training Department,
Thiru Vi Ka. Industrial Estate,
Guindy,
Chennai - 600 032.

2.The District Collector,
Erode District,
Erode.

3.The District Employment Officer,
District Employment Office,
Chennimalai Road,
Erode - 4.

4.The Tahsildar,
Taluk Office,
Perundurai,
Erode District.

.. Respondents

Writ Petition is filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records of the third respondent in A3/Pathivu/2014, dated 12.05.2014 and quash the same, and consequently direct the third respondent to sponsor the petitioner's name to any of the suitable post under the preferential category in any of the Government Organizations in terms of G.O.Ms.No.188 (P & A.R.) Department, dated 28.12.1976.

For Petitioner : Mr.P.Kannan Kumar

For Respondents: Mr.S.Prabhakaran,
Government Advocate.



O R D E R

The order, cancelling the priority certificate granted for land losers, is under challenge in the present writ petition.

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2. The petitioner states that the lands in Perundurai Taluk, Thiruvatchi Village in Survey Nos.226/6B2 and 226/6B1B along with house and petty shop were acquired by the Government for formation of NH-47, from the father of the writ petitioner. The petitioner herself states that her father was an absolute owner of the acquired property. The petitioner applied for grant of preferential certificate for appointment.

3. The fourth respondent issued a certificate. The said certificate issued was cancelled by the third respondent in proceedings dated 12.05.2014 on the ground that the petitioner is the married daughter and therefore, she is not eligible for priority certificate. Challenging the said order, the present writ petition has been filed by the petitioner.

4. The learned counsel for the petitioner made a submission that the Government Order issued in G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976 for grant of priority certificates to land losers to secure the appointment in Public Services. As per the said Government Order, there is no disqualification for the petitioner to get priority certificate.

5. The learned counsel for the petitioner has stated that there is no prohibition for grant of priority certificate to the married daughter of the owner of the land. When there is no specific prohibition for grant of priority certificate to the married daughters, the cancellation is invalid and liable to be set aside.

6. The learned counsel for the petitioner further relied on the orders passed by this Court on 01.07.2013 in WP No.17586 of 2013, wherein the Government letter dated 04.06.2013 was quashed. Relying on the said order, the petitioner claims that she is entitled for priority certificate.

7. The learned Government Advocate appearing on behalf of the respondents opposed the said contentions raised on behalf of the petitioner by stating that the married daughters are not entitled to get priority certificate or get priority for Government appointments under the land losers category and the married daughters are not considered as family members of the land losers.

8. In the present case, admittedly, the land acquired



belonged to the father of the writ petitioner and even before such acquisition, the writ petitioner got married and therefore even at the time of acquisition, the petitioner was not the dependant of the land loser and therefore, the authorities after tracing out the truth, cancelled the priority certificate. Thus, there is no infirmity in respect of the order impugned passed by the third respondent in cancelling the priority certificate issued in favour of the petitioner.

9. This Court is of the considered opinion that priority certificates are issued for the family members of the land losers, who all are otherwise eligible to secure appointment in Public Services on priority basis. However, such priority certificates are not absolute right for securing appointment and wherever such priority quota is provided against such quota appointments are made in respect of the affected persons on account of land acquisition.

10. In the present case, the priority certificate was issued. As per the Government Order, the family members of the land losers are eligible for priority certificates. The petitioner got married even prior to the land acquisition. Therefore, she cannot be construed as a family member of the land loser, who is the father of the writ petitioner. When the daughter got married prior to the land acquisition and at the time of acquisition, she was not the dependant of the land loser, she is not entitled to claim to be a member of family of the land loser.

11. That apart, the order of the Court relating to clarification cannot be applied as the Government Order stipulates that the members of the family of the land losers are eligible to get priority certificate. Once the petitioner is not a member of the family of the land loser at the time of land acquisition, she is not entitled to get priority certificate and thus there is no infirmity as such in respect of cancellation, as the priority certificate was initially granted by mistake or otherwise. The Government Order in G.O.Ms.No.188, Personnel and Administrative Reforms Department, dated 28.12.1976 is in force even as per the petitioner. There is no such contemplation regarding the married daughters to provide priority for appointments. In the absence of any express provision granting such concessions or priority in a policy, an inference cannot be drawn by the Courts for the purpose of extending the benefits, which was otherwise granted by way of a policy of the Government. The Courts cannot extend the policy for the purpose of granting priority certificates.

12. In the Government Order, the priority certificates are to be issued only to the family members of the land losers



and in the present case, the father of the writ petitioner is the land loser and even before the acquisition of the subject property, the petitioner got married and settled separately.

13. This being the factum, the petitioner has not established any acceptable grounds for the purpose of granting the relief as such sought for in the present writ petition.

14. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also dismissed.

Sd/-
Assistant Registrar(CS-IV)

//True Copy//

Sub Assistant Registrar

Svn

To

1.The Director,
Employment and Training Department,
Thiru Vi Ka. Industrial Estate,
Guindy,
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2.The District Collector,
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Erode.

3.The District Employment Officer,
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4.The Tahsildar,
Taluk Office,
Perundurai,
Erode District.

+1cc to the Government Pleader, S.R.No.37430

WP 18718 of 2014

SSD(CO)
SB(05/07/2022)