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W.P. No. 30153 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2022

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

W.P. No. 30153 of 2017

and

W.M.P. Nos. 32764 and 32765 of 2017

C.Thenmozhi

... Petitioner

-VS-

1. The Secretary to Government,
Social Welfare and Nutritious Meal Programme Department,
Secretariat, Chennai – 600 009.
2. The District Collector,
Collector Office,
Dharmapuri, Dharmapuri District.
3. The Block Development Officer,
Palacode Town Panchayat Office,
Palacode Taluk,
Dharmapuri District.

4. P.Deepa

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Certiorarified Mandamus, calling for the entire records relating to the impugned order in Na. Ka. No. 1521/2016/X1 dated 13.11.2017 issued by the Second Respondent in favour of the Fourth Respondent and to quash the same and consequently direct the First to Third Respondents to appoint the Petitioner for the said post (i.e) Noon Meal Organizer within a time frame.



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For Petitioner : Mr. T.Karunakaran
For Respondents : Mr. V. Arun
Additional Advocate General
assisted by Mrs. C.Sangamithirai
Special Government Pleader
(for R1 & R2)
Mr. D.Gopal (for R3)
Mr. A.P. Balaji (for R4)

ORDER

Heard Mr. T.Karunakaran, Learned Counsel for the Petitioner and Mr. V.Arun, Learned Additional Advocate General assisted by Mrs. C.Sangamithirai, Learned Special Government Pleader appearing for the First and Second Respondents and Mr. D.Gopal, Learned Counsel for the Third Respondents and Mr. A.P.Balaji, Learned Counsel for the Fourth Respondent and perused the materials placed on record, apart from the pleadings of the parties.

2. The Petitioner and the Fourth Respondent had applied for the post of Noon Meal Organiser in Panchayat Union School, Semmanahalli and the Fourth Respondent had been selected for the said post, which has been challenged by the Petitioner in this Writ Petition.



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3. The primordial contention raised in the Writ Petition is that the Petitioner is residing 500 meters away from the Noon Meal Centre, but the Fourth Respondent, who is residing 5 kms away from the Noon Meal Centre, has been selected to that post. It has been highlighted that in terms of G.O. Ms. No. 163, Social Welfare and Nutritious Meal Program Department dated 18.08.2010 issued by the Government of Tamil Nadu, the selected candidate has to reside within 3 kms from the Noon Meal Centre in which the selection is made. In furtherance to the order passed on 13.07.2022 by the Court, the Third Respondent has filed typed-set containing the distance measurement certificate from the Assistant Engineer (RD), Palacode Panchayat Union after issuing notice to the Petitioner and the Fourth Respondent. In the said certificate, it is shown that the residence of the Petitioner was 130 metres while that of the Fourth Respondent is 2,650 metres at the time of making the application.

4. It is next pleaded by Learned Counsel for the Petitioner that the distance had not been measured from the residences of the Fourth Respondent as given in her application, but from a different place. In furtherance to the order dated 23.08.2022, the concerned officials, who had verified the distance, have appeared in person today and produced the original applications of the Petitioner and the Fourth Respondent from which it is evident that the address



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of the Petitioner has been shown as No. 2/226, Semmanahalli Village, Thirumalvadi Post, Palakode Taluk, Dharmapuri District and the address of the Fourth Respondent has been shown as Thirumalvadi Village and Post, Palakode Taluk, Dharmapuri District – 636808.

5. Learned Additional Advocate General appearing for the First and Second Respondents has brought to notice that the measurement of distance has taken place from the said addresses which have been given by the Petitioner and the Fourth Respondent as reflected in the distance measurement certificate dated 12.08.2022 from the Assistant Engineer (RD), Palacode Panchayat Union. Learned Counsel for the Fourth Respondent asserts that the Fourth Respondent does not have any other residence other than that given in her application from where the measurement has been taken and he has also made an endorsement to that effect in the court record.

6. The Third respondent has filed additional Counter-Affidavit dated 11.07.2022 showing the comparative assessment of marks between the Petitioner and the Fourth Respondent in the tabular statement below:-



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S.No	Category	Writ Petitioner	Fourth Respondent
1	Education – 5 SSLC	4	4
2	Widow & DW - 10	-	-
3	2 Children – 10 1 Child – 9 No Child - 8	10	10
4	1 Km – 5 2 Km – 3 3 Km - 2	5	2
5	Age – 10 21-29 - 3 30-38 - 4 40 and above - 5	4	3
6	No Children - 5 Minor Children – 5 Female heir revenue drawer – 4 Male heir revenue drawer – 4	3	3
7	Physical Fitness - 10	10	10
8	Knowledge – 10 (Noon Meal Program)	3	9
Total		39	41

7. Learned Counsel for the Petitioner states that while the Fourth Respondent has been awarded 9 marks under the head 'Knowledge', the Petitioner has been arbitrarily given only 3 marks for the same. The questions and expected answers that had been put to the candidates in the interview of 'Knowledge' has been enumerated in the additional Counter-Affidavit dated 13.08.2022 filed by the Third Respondent in that regard. When a proper mechanism has been adopted in allocating marks to the competing candidates as shown by the Third Respondent, it is not possible for this Court exercising



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powers of judicial review of the decision making process to sit in appeal and take a different view of the matter. That apart, it has also been brought to notice that three other candidates, viz., N.Shakila, M.Sivakami and M.Alamelu, have obtained 40 marks, which is higher than what has been secured by the Petitioner in this case. In that view of the matter, it is not possible for this Court to interfere with the selection process in this case.

8. 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 01.03.2022 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.

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

25.08.2022

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Index: Yes/No

Note: Issue order copy by 27.10.2022.



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To

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Social Welfare and Nutritious Meal Programme Department,
Secretariat, Chennai – 600 009.
2. The District Collector,
Collector Office,
Dharmapuri, Dharmapuri District.
3. The Block Development Officer,
Palacode Town Panchayat Office,
Palacode Taluk,
Dharmapuri District.

Copy to

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



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P.D. AUDIKESAVALU, J.

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