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W.P. No.31260 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2022

CORAM

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P. No.31260 of 2019 and
W.M.P.No.31406 of 2019

Jayanthi

... Petitioner

Vs.

1.The District Collector,
Cuddalore District.

2.The Block Development Officer,
Nallur Panchayat Union,
Nallur, Veppur Taluk,
Cuddalore District.

3.Panchayat Union Primary School,
Mel Nemili, Rep. By the Commissioner,
Panchayat Union, Nallur,
Nallur – 606 302,
Cuddalore District.

4.Malathi

... Respondents

PRAYER : Writ Petition filed Under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the records relating to the proceedings of the 1st respondent dated 11.06.2018 (signed on 11.06.2018) bearing reference No.Na.Ka.PD.1/298/2016 appointing the 4th respondent as the Noon Meal Organisator of the 3rd respondent Panchayat Union Elementary School, Melnemili read with the proceedings dt. 17.09.2019 bearing reference No.Na.Ka.P.D.1/298/2016 rejecting the petitioners request to cancel the appointment of the 4th respondent and to consequently direct



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the 1st respondent to appoint the petitioner as the Noon Meal Organisator of the 3rd respondent Panchayat Union Elementary School, Melnemili or any other nearby school and to grant all service and other benefits including salary, increment etc. together with arrears, seniority w.e.f. 11.06.2018, the date on which the 4th respondent was appointed within a time frame fixed by this Court.

For Petitioner : Mr.S.Manuraj
for Mr.Saravanakumar

For Respondents : Mr.U.M.Ravichandran
Special Government Pleader
for R1

: Mr.R.Kumaravel
Additional Government Pleader
for R2 & R3

ORDER

The prayer sought for herein is for a writ of certiorarified mandamus calling for the records relating to the proceedings of the 1st respondent dated 11.06.2018 (signed on 11.06.2018) bearing reference No.Na.Ka.PD.1/298/2016 appointing the 4th respondent as the Noon Meal Organisator of the 3rd respondent Panchayat Union Elementary School, Melnemili read with the proceedings dt. 17.09.2019 bearing reference No.Na.Ka.P.D.1/298/2016 rejecting the petitioners request to cancel the appointment of the 4th respondent and to consequently direct the 1st respondent to appoint the petitioner as the Noon Meal Organisator of the 3rd respondent Panchayat Union Elementary School, Melnemili or



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any other nearby school and to grant all service and other benefits including salary, increment etc. together with arrears, seniority w.e.f. 11.06.2018, the date on which the 4th respondent was appointed within a time frame fixed by this Court.

2. The District Administration of Cuddalore District called for applications to fill up the post of Noon Meal Organiser at various Centres including the Centre called Panchayat Union Primary School at Melnemili, Cuddalore District.

3. Several applications were filed among them the petitioner as well as 4th respondent also made applications.

4. As per the procedure contemplated in Government Order in G.O.(Ms).No.163 Social Welfare and Noon Meal Scheme Department dated 18.08.2010, all those applications were processed and thereafter, an interview was conducted after completing the process of selection by conducting the interview, the 4th respondent was selected and appointed by the orders of the 1st respondent/District Collector dated 11.06.2018 appointing her in the said post i.e., Noon Meal Organiser at Melnemili



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Centre. The petitioner who was not selected for the said post, aggrieved over the said order, has challenged the same in this writ petition,

5. Heard Mr.S.Manuraj, learned counsel for the petitioner who raised two grounds challenging the order impugned. The first ground raised by him is that, the procedure contemplated under the relevant G.O. i.e., G.O.(Ms)No.163 dated 18.08.2010 has not been scrupulously followed in completing the selection. The second ground he urged was that the 2nd respondent despite suppression of some material factors which ought to have been submitted, was selected and on these two grounds, the learned counsel wants to assail the impugned order.

6. Elaborating further with regard to the first ground, the learned counsel appearing for the petitioner pointed out that, in the G.O. itself it has been mentioned there is no Selection Committee constituted for selecting candidates for the post of Noon Meal Organiser in Tamil, the following has been stated in the G.O.

“சத்துணவு அமைப்பாளர் பணிக்கான தேர்வுக்குழு
ஏதும் இல்லை”



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7. While relying upon this clause in the G.O., the learned counsel would contend that, as per the procedure in vogue based on the educational qualification, marks are awarded, for the qualification of 10th standard S.S.L.C. 5 marks would be given, those who completed +2 3 marks will be given and those who completed the degree 2 marks would be given. Therefore, the marks awarded for the higher qualification will be in the descending order. In order to avoid highly educational qualified persons to become the Noon Meal Organiser which is a lower level post in the Department concerned to look after only the Noon Meal Centre, therefore, such kind of descending order in awarding marks wherein, no concession have been envisaged. The learned counsel in this regard would further point out that, after awarding these marks based on the educational qualification, the total marks on the basis of educational and other qualification obtained by the petitioner was 28 whereas the 4th respondent was able to get only 25 marks.

8. Therefore, the petitioner's name stood as first in the list of candidates, hence there was every expectation on the part of the petitioner that the petitioner would be selected and appointed.



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9. However, contrary to the same, once again an interview was called for where all these candidates including the petitioner and 4th respondent were called for interview. In that interview, marks were awarded based on the performance of the candidates and accordingly the 4th respondent was awarded 13 marks whereas the petitioner was given only 9 marks, hence the 25 marks +13 the 4th respondent was able to get the total marks of 38 whereas the petitioner 28+9 was able to get only 37. Therefore, by 1 mark difference, the 4th respondent has become first and the petitioner has been pushed to the second position and accordingly the 4th respondent was selected and appointed.

10. In this context, it is the grievance of the petitioner as projected by Mr.S.Manuraj, learned counsel for the petitioner that, when the G.O. says that there should be no Selection Committee for the post of Noon Meal Organiser, such kind of Selection Committee, who conducted the interview, could not have been constituted and there was no scope for conducting any interview after verifying the certificates of the candidates and awarding marks. Therefore, this is a procedural violation. Hence the first ground, according to the learned counsel for the petitioner is concerned, is in favour of the petitioner.



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11. So far as the second ground i.e., suppression of facts by the 4th respondent is concerned, it is submitted by the learned counsel that, the marks awarded based on the educational qualification in descending order as stated supra has also been awarded in the case of the petitioner as well as the 4th respondent. In this context, the petitioner was having the qualification of 10th standard i.e. S.S.L.C. for whom 5 marks were awarded whereas in respect of the 4th respondent since she claimed that she was qualified +2, 3 marks were awarded but the fact remains that, the 4th respondent has completed the B.Ed. Degree, had it been disclosed to the authorities concerned i.e., the respondents herein based on such B.Ed. Degree which was the educational qualification of the 4th respondent, a reduced mark of 2 would have been awarded to her and in that case, the total marks obtained by the petitioner as well as the 4th respondent would be 37 and in that case, both are equal. Therefore, the petitioner could have got a choice to compete with the 4th respondent having the equal marks and the 4th respondent might not have been or ought not to have been selected and appointed, hence on that ground also the learned counsel for the petitioner seeks indulgence of this Court against the impugned order.



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12. Per contra, Mr.U.M.Ravichandran, learned Special Government Pleader appearing for the 1st respondent would submit that, though the said G.O. states that there would be no Selection Committee, it does not say that there should not be any interview to select the post.

13. Therefore, the said ground raised by the petitioner that there was a procedural violation is untenable. Insofar as the suppression is concerned, the learned counsel for the respondents would submit that, as per the educational qualification projected by the candidates concerned, the marks were awarded and a descending order mark would be awarded to eliminate the candidates who are having the higher educational qualification for the post of the Noon Meal Organiser. In this case, if at all the 4th respondent has suppressed that she had the qualification of B.Ed. also for which she would have been given two marks, even then there would be a difference between these two viz., petitioner and the 4th respondent. Even in that case, it cannot be argued by the learned counsel for the petitioner that, the petitioner is in higher pedestal than the 4th respondent. Therefore, on that ground also, the order of appointment given to the 4th respondent cannot be assailed, he contended.



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14. I have considered the said rival submissions made by the learned counsel appearing for both sides and have perused the materials placed before this Court.

15. Insofar as the first ground raised by the petitioner that the procedure has been violated is concerned, it is to be noted that, in the very G.O.(Ms).No.163 itself, the following has been stated:

“ஊராட்சிய ஒன்றிய ஆணையர் / நகராட்சி
மாநகராட்சி ஆணையரால் பெறப்படும்
விண்ணப்பங்களை ஆய்வு செய்து நேர்முகத் தேர்வு
நடத்தி முழு விவரங்கள் அடங்கிய கோப்பினை
மாவட்ட ஆட்சித் தலைவருக்கு அனுப்பி அவர்
ஒப்புதல் பெற்று பணி நியமனம் வழங்க வேண்டும்.”

16. It means that, the applications received by the Panchayat Union Commissioner, Municipal Commissioner and Corporation Commissioner shall be verified and thereafter interview would be conducted based on which the files with entire details would be forwarded to the District Collector and after getting his approval, appointment orders would be given.



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17. Therefore, the conducting of interview is part and parcel of the selection process which is available in the very G.O. itself, hence the contention raised by the learned counsel for the petitioner that, in this regard the procedure has been violated cannot be countenanced.

18. Insofar as the suppression aspect is concerned, assuming that the 4th respondent was having the higher qualification of B.Ed. degree and had it been disclosed by her, she would have been given only 2 marks and in that case both the petitioner and the 4th respondent would have been in a same position getting 37 marks, even then, the petitioner is not higher than the 4th respondent. Therefore, on that ground also, the selection and appointment made to the 4th respondent cannot be questioned.

19. Moreover, what was the qualification i.e., educational qualification available with each of the candidate can be verified by the respondents only on the basis of the declaration. Therefore, in this regard since the minimum qualification is only 10th standard, that qualification is to be considered and without a minimum qualification if anyone has been selected and appointed, that appointment only can be treated as an



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illegal appointment. Whereas in the present case the selection and appointment of the 4th respondent can only be treated, if at all, as irregular appointment, that can be ratified as there is no other candidate having the higher marks than the 4th respondent is available including the petitioner. Hence, for these two grounds as raised by the learned counsel for the petitioner, the impugned order of appointment made in favour of the 4th respondent cannot be challenged successfully, accordingly this Writ Petition fails hence it is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index : Yes / No
Speaking Order : Yes / No
Sgl

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R.SURESH KUMAR, J.

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