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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.03.2022

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

W.P. No. 26525 of 2017
and
W.M.P. No. 28240 of 2017

Jayarani

... Petitioner

-vs-

1. State Rep. by its
The Secretary to the Government
Tamil Nadu Social Welfare and Nutritious
Meals Department
Secretariat, Chennai.
2. The Director
Integrated Child Development Services
No. 1, Pammal Nallathambi Street
Taramani, Chennai - 600 113.
3. The District Collector
Villupuram District.
4. The District Project Officer
Integrated Child Development Services
District Collector Office
Villupuram District.
5. Child Development Planning Officer
Child Development Planning Office
Kalvarayan Hills
Villupuram District.
6. Mahalakshmi

... Respondents

Prayer:- Writ Petition filed under Article 226 of the Constitution of India, 1950, praying to issue a Writ of Mandamus, directing the Second to Fifth Respondents to select the Petitioner as Anganvadi Worker in M.Erukkampattu Centre, Kallavarayan Hills, Villupuram District after satisfying eligible criteria and qualification for the post.



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For Petitioner : No appearance

For Respondents: Mr. V.Arun, Additional Advocate General
assisted by
Mr. P.Gurunathan,
Additional Government Pleader (for R1 to R5)

O R D E R

Heard Mr. V.Arun, Learned Additional Advocate General assisted by Mr. P.Gurunathan, Learned Additional Government Pleader appearing for the First to Fifth Respondents, and perused the materials placed on record, apart from the pleadings of the parties.

2. There is no representation for the Petitioner when the matter is called at 11.59 a.m. today. In view of the order proposed to be passed, which would not cause any prejudice to the Sixth Respondent, notice to her is dispensed with.

3. The Petitioner and the Sixth Respondent had applied for the post of Anganwadi Worker in M.Erukampattu Centre, Kallavaryan Hills, Villupuram district and the Sixth Respondent had been selected to that post, which has been challenged by the Petitioner in this Writ Petition.

4. 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 Sixth Respondent, who is not a resident of that hamlet has been selected to that post. It has been highlighted that the mandatory condition prescribed in clause 2.8 of G.O. (Ms) No. 110, Social Welfare and Nutritious Meal Programme (SW7) Department dated 14.05.2012 issued by the Government of Tamil Nadu, reads as follows:-

" The Government direct that the applicant should be the resident of the same hamlet. If no eligible / suitable candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, eligible / suitable candidates are not available, the candidates from the neighbouring panchayats located within 10 kms. Shall be considered for the appointment of Anganwadi worker.

In respect of Anganwadi centres in the Municipality / Corporation areas, the applicant residing in the same ward shall be considered. If no eligible / suitable candidate from the same ward is



available, the candidates from the nearby ward shall be considered. Even then the eligible candidates are not available, candidates from the Division shall be considered for appointment of Anganwadi worker."

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5. This Court during the earlier hearing on 13.10.2017 had passed the following order:-

"2. Prima facie, a case is made out before this Court that the Sixth Respondent, who is hailing from Pazhayapalapattu, Sankarapuram Taluk, which is 50 k.m. away from the Centre, is sought to be appointed. It is not known how a person coming from 50 k.m. away from the Noon Meal Centre will be able to discharge the duty cast on the Anganwadi Worker in preparing and serving the food timely to the students. Therefore, there shall be an order of interim injunction restraining the respondents from appointing the Sixth Respondent, till further orders."

It is represented that the said interim order restraining the appointment of the Sixth Respondent continues to be in force.

6. In the Counter-Affidavit dated 21.03.2022 filed by the Fifth Respondent, it has been stated as follows:-

"5. It is submitted that for Anganwadi Worker in the Child Development Service Programme, M.Erukampatu Centre, Kalvarayan Hills Block, Villupuram District, applications were received and the applicants were attended the interview. The selection committee has taken into consideration of the nativity of the candidates, interest and knowledge of the candidates which was assessed during the course of interview. Selvi. Jayarani, D/o. Kuzhanthaivel and Tmt. Mahalakshmi, W/o. Muthusamy were attended the interview. The following details of the Petitioner and the Sixth Respondent have been extracted for the kind consideration.

Sixth Respondent	Petitioner
Date of Birth - 09.05.1984	Date of Birth - 07.08.1989
Community - ST	Community - ST
SSLC	HSC
Married	Unmarried
ST Category	ST Category
20 Km distance from the Centre	2.5 Km distance from the Centre



No family members in government job	No family members in government job
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6. It is respectfully submitted that during the interview, the Sixth Respondent told that she would stay the same Village to work as Anganwadi Worker in M.Erukampattu Village. The Writ Petitioner approached this Hon'ble Court by filing this present Writ Petition and got interim injunction, fearing about that the opportunity would go to the Sixth Respondent. In view of the interim injunction granted by this Hon'ble Court, no appointment made to the M.Erukampattu Centre to-date. Further, this Respondent asked the Petitioner to withdraw the Petition and make an application to the appointment to the post of Anganwadi Worker in the year 2019 recruitment, but the Petitioner did not do so. In view of the interim injunction, interview for the year 2019 to the M.Erukampattu Centre could not be conducted. The Anganwadi Worker post in Erukampattu Centre is lying vacant to-date. In the meantime, the Writ Petitioner after marriage, went to Tiruppur...."

It is evident that the selection of the Sixth Respondent is contrary to the stipulated condition in G.O. (Ms) No. 110, Social Welfare and Nutritious Meal Programme (SW7) Department dated 14.05.2012 which provides that it is only when candidates residing within the same hamlet are not available, selection of candidates from neighbouring Panchayats within a radius of ten kilometers could be made, as upheld by 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). The circumstance that the Sixth Respondent had agreed to reside near the Anganwadi Centre after appointment cannot be a ruse to ratify her illegal selection in contravention of the constitutional mandate of guaranteeing equality of opportunity for all eligible citizens in public employment. This would obviously mean that the Sixth Respondent, whose residence was not within the prescribed distance at the time of making the application, cannot be appointed and on account of long passage of time, a fresh selection process would have to be made to fill up the vacancy. It is made clear that if the Petitioner and the Sixth Respondent are eligible for appointment satisfying all conditions including residence at the relevant point of time, they are not precluded from applying for that post in accordance with law.



In the result, the Writ Petition is disposed on the aforesaid terms. Consequently, the connected Miscellaneous Petition is closed. No costs.

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Sd/-
Assistant Registrar(CO)

//True copy//

Sub Assistant Registrar

Maya

To

1. The Secretary to the Government
Tamil Nadu Social Welfare and Nutritious
Meals Department
Secretariat, Chennai.
2. The Director
Integrated Child Development Services
No. 1, Pammal Nallathambi Street
Taramani, Chennai - 600 113.
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4. The District Project Officer
Integrated Child Development Services
District Collectorate Office
Villupuram District.
5. The Child Development Planning Officer
Child Development Planning Office
Kalvarayan Hills
Villupuram District.

Copy to

1. Jayarani,
D/o.Kuzhanthaivel,
Erukampattu (Mathura),
Mottuvalavu,
16, East Street,
Arampondi Post,
Villupuram District.



2. Mahalakshmi,
W/o. Muthusamy,
3/24, Amman Koil Street,
Pazhayapallapattu,
Sangarapuram Taluk,
Villupuram District.

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+1cc to Government Pleader SR.No.19176

W.P. No. 26525 of 2017

RR (CO)
GMY (12/05/2022)