



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.14251 of 2020

and

W.M.P. (MD)No.11910 of 2020

WEB COPY

D.S.S.Primary School,
Rep. by its Manager T.Thanaseelee,
Kakkilsikkayanpatti,
Cumbum Union,
Theni District.

... Petitioner

versus

1. The District Collector,
Theni District.

2. The Commissioner,
Cumbum Panchayat Union,
Theni District.

3. S.Indradevi, Assistant
Government Higher Secondary School,
Surulipatti,
Theni District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the order of the first respondent made in 2020/Oo.Va.II dated 01.10.2020 and the consequential order of the second respondent made in Na.Ka.No.854/2020/A4, dated 01.10.2020 by appointing the third respondent as Noon Meal Organizer by promotion in the petitioner's school and quash the same.

For Petitioner : Mr.K.Vijayanand

For R1 and R2 : Mr.S.Saji Bino,
Special Government Pleader

ORDER

This writ petition is filed challenging the order of second respondent dated 01.10.2020, appointing the third respondent as Noon Meal Organizer by promotion in the petitioner school.

2. The petitioner school is a recognized private aided minority school, imparting education to students from standard I to V. The State Government extended Dr.M.G.R. Noon-Meal Scheme to the



petitioner School by sanctioning three posts, namely one organizer, one cook and one assistant to the Noon Meal Centre attached with the Schools.

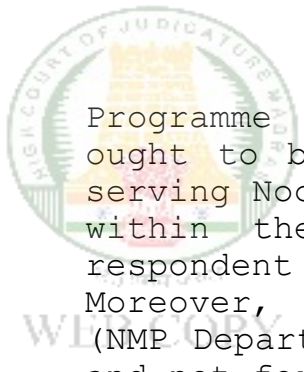
3. According to the petitioner School, the selection procedure of Noon Meal Workers in respect of Minority Aided Schools is covered by the G.O.Ms.No.4 (Social Welfare and Nutritious Meal Programme (NMP) Department), dated 06.01.2011. The said G.O. was upheld by the Division Bench of this Court in W.A.(MD)No.792 of 2012, vide order dated 22.03.2017. Now, the Government issued G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020, forming three selection panels, having three members one headed by District Revenue Officer, P.A. to District Collector (R.D.) and P.A. to District Collector (NMS) along with concerned Tahsildar and Block Development Officer for selection of Noon Meal Organizer, Cook and Servant respectively. At present, in the petitioner School, the post of Noon Meal Organizer is vacant due to the superannuation of Ex-Noon Meal Organizer, namely, Dhavamani, on 31.05.2019. But, the said post was filled up by the second respondent, vide order 01.10.2020, by appointing the third respondent as Noon Meal Organizer on promotion. Challenging the same, the present writ petition is filed.

4. According to the petitioner School, the respondents have no jurisdiction to fill up the post by way of promotion without notifying the vacancies in the whole district as per G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020. Therefore, the impugned order is illegal and the same is liable to be set aside.

5. The learned Special Government Pleader appearing for the respondents 1 and 2 submits that G.O.Ms.No.28 (Social Welfare Nutritious Meal Programme (NMP Department) dated 05.09.2020 is issued for direct recruitment and not for appointment by promotion. He further submits that the notification for direct recruitment to the post of Noon Meal Organizer can be issued only after filling up the 25% of existing vacancies by promotion. As per G.O.Ms.No.163 (Social Welfare Nutritious Meal Programme (NMP Department) dated 18.08.2010, 25% of total vacancies ought to be filled up by way of giving promotion to the eligible serving Noon Meal Cook and Cook Assistant. Insofar as Theni District is concerned, there existed 103 vacancies in the post of Noon Meal Organizers, out of which, 26 vacancies to be filled up by promotion and two vacancies fell within the jurisdiction of Cumbum Panchayat Union. Therefore, the third respondent was appointed as Noon Meal Organizer on promotion.

8. This Court paid its anxious consideration to the rival submissions made and perused the materials available on record.

9. As rightly contended by the learned Special Government Pleader, G.O.Ms.No.163 (Social Welfare Nutritious Meal



Programme (NMP Department) dated 18.08.2010, 25% of total vacancies ought to be filled up by way of giving promotion to the eligible serving Noon Meal Cook and Cook Assistant. Since two vacancies fell within the jurisdiction of Cumbum Panchayat Union, the third respondent was appointed as Noon Meal Organizer on promotion. Moreover, G.O.Ms.No.28 (Social Welfare Nutritious Meal Programme (NMP Department) dated 05.09.2020 was issued for direct recruitment and not for appointment by promotion. Therefore, the appointment of the third respondent as Noon Meal Organizer on promotion cannot be found fault with. Accordingly, the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

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/ /2022

Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The District Collector,
Theni District.
2. The Commissioner,
Cumbum Panchayat Union,
Theni District.

+1 CC to M/s.SPL GP (SR-691[F] dated 06/01/2022)

W.P. (MD)No.14251 of 2020

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