



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P (MD) Nos.14783 of 2020 and 20048 of 2021

and

W.M.P. (MD)No.12440 of 2020, 16752 and 16753 of 2021

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W.P. (MD)No.14783 of 2020

1. Kasturiba Gandhi Gurukulam
Aided Middle School,
Rep. by its Secretary R.Muthian
Thuhali, Thirupananthal Union,
Thanjavur District.
2. Aided Primary School
Rep. by its Secretary Munaivar Begum
Mullangudi, Thirupananthal Union,
Thanjavur District.
3. Ilango Aided Primary School,
Rep. by its Secretary K.Saminathan,
Kamatchiapuram,
Thanjavur District.
4. Sri Sundaraganesa Aided Primary School,
Rep. by its Secretary C.Adhavan,
Kothankudi, Kumbakonam Taluk,
Thanjavur District.
5. Aided Primary School,
Rep. by its Secretary G.Meenakshisundaram,
Mangudi, Kumbakonam Taluk,
Thanjavur District.

... Petitioners

versus

1. The State of Tamilnadu,
Rep. by its Secretary,
Department of Social Welfare and
Nutritious Meals Programme,
St. George Fort, Chennai - 9.
2. The Commissioner (Social Welfare),
2nd Floor, Panagal Maligai,
Saidapet, Chennai - 15.
3. The District Collector,
Thanjavur District.



4. The District Revenue Officer,
Thanjavur District.
5. The Personal Assistant to the
District Collector (Rural Development)
Collectorate,
Thanjavur District.
6. The Personal Assistant to the
District Collector (Noon Meals),
Collectorate,
Thanjavur District.
7. The Tahsildar,
Kumbakonam Taluk,
Thanjavur District.
8. The Block Development Officer,
Tirupananthal Panchayat Union,
Tiruvidaimarudur Taluk,
Thanjavur District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Declaration, to declare the G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020 as illegal and it is not consonance with the order of this Court made in W.A.(MD)No.125 of 2005 reported in 2008(1)MLJ 726, as far as the selection procedure and appointment of the Noon Meal Organizers, Cook and Servant, in the private aided schools are concerned and consequently, direct the first respondent to follow the procedure by sponsoring five members by the private schools for the selection and appointment of Noon Meal Workers in the private aided schools.

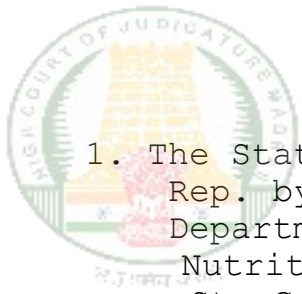
For Petitioners	:	Mr.R.Suriyanarayanan
For Respondents	:	Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.S.Saji Bino, Special Government Pledar

W.P. (MD)No.20048 of 2021

N.S.K.P.Higher Secondary School,
Gudalur,
Rep. by its Secretary P.K.Ramba,
Gudalur Post,
Theni District.

... Petitioner

versus



1. The State of Tamilnadu,
Rep. by its Secretary
Department of Social Welfare and
Nutritious Meals Programme,
St. George Fort,
Chennai - 9.
2. The Commissioner (Social Welfare),
2nd Floor, Panagal Maligai,
Saidapet, Chennai - 15.
3. The District Collector,
Theni District.
4. The District Revenue Officer,
Theni District.
5. The Personal Assistant to the
District Collector,
(Rural Development),
Collectorate, Theni District.
6. The Personal Assistant to the
District Collector (Noon Meals),
Collectorate,
Theni District.
7. The Thasildar,
Uthamapalayam Taluk,
Theni District.

... Respondents

Writ Petition filed under Article 226 of Constitution of India seeking for the issuance of writ of declaration, to declare that G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020 of the first respondent is illegal and it is not consonance with the order of this Court reported in 2008 (1) MLJ 726, as far as the selection procedure and appointment of the Noon Meal Organizers, Cook and Servant, in the private aided schools are concerned and in consequence to direct the first respondent to follow the procedure of sponsoring five members by the petitioner's school for filling up the post of organizer and cook.

For Petitioner	:	Mr.R.Suriyanarayanan
For Respondents	:	Mr.Veera Kathiravan, Additional Advocate General assisted by Mr.S.Saji Bino, Special Government Pledar



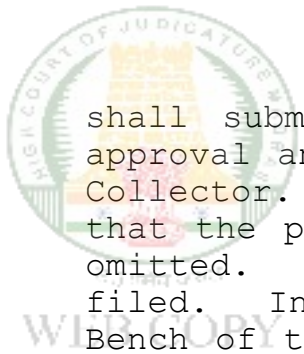
COMMON ORDER

These writ petitions are filed seeking for a Writ of Declaration, to declare that G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020 is illegal and not consonance with the order of this Court made in W.A. (MD)No.125 of 2005 reported in 2008(1)MLJ 726, as far as the selection procedure and appointment of the Noon Meal Organizers, Cook and Servant, in the private aided schools.

2. The Government, vide G.O.Ms.No.28 dated 05.09.2020, formed three selection panels, having three members, one headed by District Revenue Officer, P.A.to the District Collector (R.D.) and P.A. to the District Collector to Noon Meal Scheme along with concerned Thasildar and Block Development Officer for selecting Noon Meal Organizer, Cook and Servant. Challenging the same, the present writ petitions are filed.

3. Mr.R.Suriyanarayanan, learned counsel appearing for the petitioners submits that the petitioner Schools are recognized private aided primary, middle and high schools, imparting education to students hailing from poor families. The State Government extended Dr.M.G.R. Noon-Meal Scheme to the petitioner Schools by sanctioning three posts, namely one organizer, one cook and one assistant to the Noon Meal Centre attached with the Schools. The Government issued G.O.Ms.No.918 (Backward Classes Welfare, Nutritious Meal Programme and Social Welfare Department) dated 03.11.1989, providing appointment to the abovesaid posts in the Noon Meal Centre. As per the said Government Order, a panel of five names would be prepared by the Secretary of the School and sent to the District Collector, who would select one among them and after giving approval, the appointment order would be issued by the School. Thereafter, the said scheme was modified by another G.O.Ms.No.294 (Social Welfare and Nutritious Meal Programme (NMP.I) Department) dated 21.10.1993. As per the said Government Order, though preparing a panel of five names by the School, instead of sending a panel of five names to the District Collector, the same shall be sent to a Selection Committee constituted by the Personal Assistant (NMP) to the District Collector as Chairman, Correspondent/Headmaster of the concerned School and Commissioner of concerned Panchayat Union as members and they would select one and finally, the appointment order would be issued by the Personal Assistant (NMP) to the District Collector.

4. The learned counsel for the petitioners further submits that yet another Government Order was issued in G.O.Ms.No.206 (Social Welfare and Nutritious Meal Programme (NMP) Department) dated 13.09.1996 that the existing Selection Committee shall make the selection of candidates for appointment of Noon Meal Organizer, the Personal Assistant to the Collector as Chariman of the Committee



shall submit the connected papers to the District Collector for approval and the appointment order shall be issued by the District Collector. In the said G.O.Ms.No.206, dated 13.09.1996, the word that the panel of five members to be sponsored by the School, was omitted. Challenging the said G.O., series of writ petitions were filed. In the writ appeal in W.A.(MD)No.125 of 2005, a Division Bench of this Court, after considering the Government Letter dated 25.03.2003, approved the procedure of sending a panel of five persons by the Secretary of the School.

5. The learned counsel for the petitioners further submits that thereafter, G.O.Ms.No.163 (Social Welfare and Nutritious Meal Programme (NMP) Department) dated 18.08.2010 was issued, prescribing the method of choosing the candidates, such as, educational qualification, age and distance criteria for direct recruitment. In the said Government Order, it was stated that after having interviewed by the Commissioner of Union/Municipality/Corporation, the appointment order would be issued, after getting approval from the District Collector. However, it is omitted to mention about the sponsoring of a panel of five eligible candidates by the school to the appointing authority. In view of the omission of word "sponsoring five names from the school", the said G.O. was challenged and stay was obtained. Therefore, the post of Noon Meal Organizer has not been filled up so far and Noon-meal Centre is run by way of in-charge, while so, the first respondent 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 Noon Meal Organizer, Cook and Servant respectively. In the said Government Order also, the word "sponsoring five names from the school" is omitted.

6. The learned counsel for the petitioners submits that the omission of word "sponsoring five names from the school" would cause prejudice to the School, as the Noon Meal Centre is situated in the School and if they are not having control over the cook, there is every possibility of occurring untoward incident. In order to avoid such untoward incidents, the school must monitor the activities in the Noon Meal Centre. Therefore, the petitioners made a representation dated 22.09.2020 to the first respondent requesting to add the Secretary of the School in the selection panel or follow the procedures of sponsoring the panel of five members for selecting one Noon Meal Organizer, which is vacant in the school. In the meantime, the third respondent, on 26.09.2020, issued a notice inviting the eligible candidates for making application for filling up the post of Noon Meal Organizer in the schools. Since G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020 is not in consonance with the order of



the present writ petitions are filed.

7. The learned Additional Advocate General appearing for the respondents submits that the petitioner Schools are non minority aided Government and private Schools. The appointment of Noon Meal Organizer to be made is covered under G.O.Ms.No.72, Social Welfare and Noon Meal Programme (NMP-2) dated 30.04.2012, G.O.Ms.No.163, Social Welfare and Noon meal Programme (NMP-2) Department, dated 18.08.2010, G.O.Ms.No.206, Social Welfare and Noon Meal Programme Department dated 04.07.2012 and G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme (NMP 2) dated 06.01.2011 and not under G.O.Ms.No.918 dated 03.01.1989, G.O.Ms.No.294, Social Welfare Department dated 21.10.1993 and G.O.Ms.No.206, Social Welfare and Nutritious Meal Programme Department dated 13.09.1996. The Government Orders cited by the petitioner Schools are no longer applicable in the matter of recruitment of Noon Meal Organizer. The appointment of Noon Meal Organizer has to be made in the aided private schools in terms of G.O.Ms.No.4 Social Welfare and Nutritious Meal Programme (NMP-II) Department dated 06.01.2011 issued by the Social Welfare and Noon Meal Scheme Department. As per the said Government Order, only the minority institutions have to be consulted for appointment of Noon Meal Employees. The Government Orders, namely, G.O.Ms.No.163, dated 18.08.2010 and G.O.Ms.No.4, dated 06.01.2011 were challenged before this Court in W.P.(MD) No.7981 of 2012, etc. (batch cases), wherein, this Court quashed G.O.Ms.No.4 dated 06.01.2011 and also quashed a portion of G.O.Ms.No.163, dated 18.08.2010 with regard to the distance of 3 kms. for consideration of appointment. Aggrieved over the same, the Government filed W.A.(MD)No.792 of 2012, etc., wherein, a Division Bench of this Court held that G.O.Ms.No.4, dated 06.01.2011 is valid. Thereafter, G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme (NMP II) Department dated 18.08.2010 and G.O.Ms.No.4 Social Welfare and Nutritious Meal Programme Department dated 06.01.2011 are in operation.

8. The learned Additional Advocate General further submits that the Government, in order to ensure that noon-meal is being provided to the students in the pandemic situation, issued G.O.Ms.No.28, Social Welfare and Nutritious Meal Programme (NM4-2) Department, dated 05.09.2020, constituting three selection committees and filled up the vacancies. The said G.O. is issued only for selecting candidates for a particular year, i.e. for the year 2020 and that too due to pandemic situation that was in existence. There is no difference between the earlier process of selection and the present process of selection by the Committee constituted vide G.O.Ms.No.28, dated 05.09.2020. According to the learned Additional Advocate General, in the earlier process of selection, the persons would be selected by the Committees and recommended to the District Collector and the District Collector, being the appointing authority, would pass necessary orders. In the present process of selection also, the Selection Committee would



select candidates and recommend to the District Collector and the District Collector, after satisfying with the qualifications, would appoint persons. The learned Additional Advocate General further submits that the selection of Noon Meal Organizer in future would be conducted as per the regular process of selection.

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9. This Court paid its anxious consideration to the rival submissions made.

10. The Government, in order to encourage the students to come to school and to ensure that they are provided at least one time meal, introduced Noon Meal Scheme. The Scheme is subsequently developed as a Nutritious Meal Programme. Under the Nutritious Meal Programme, Noon Meal Cooks were established in every school and the Nutritious Meal Organizers were appointed in consultation with the Management of the Aided, Minority and Non Minority institution. The Managements would propose a panel of five names to the Collector for appointment and the Collector shall approve any one of the names, recommended by the Management and thereafter, the Management will issue appointment orders.

11. The Government have also noticed frequent friction between the Management of the School and Nutritious Meal Organizers and for the purpose of smooth functioning of the scheme, the Government framed certain procedures for appointment of Nutritious Meal Organizers by constituting a Selection Committee with the following persons for appointing nutritious meal organizers in minority and non-minority aided schools.

Personal Assistant (NMP to the Collector - Chairman

Correspondent/Headmaster of the concerned

School

- Member

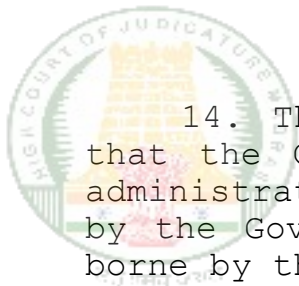
Commissioner of the concerned

Panchayat Union

- Member

12. The Government has also prescribed certain qualifications for the posts, vide G.O.Ms.No.163 dated 18.08.2002. While so, the Government issued G.O.Ms.No.4, Social Welfare Nutritious Meal Programme (NMP Department) dated 06.01.2012 laying down the guidelines for appointment. By this Government Order, the District Collector, Personal Assistant to the Collector of the Noon-Meal Organizers were authorized to select a list of persons, out of which, school would select five persons and out of five persons selected by school, one must be appointed to the post of Cook.

13. The said Government Order was challenged on the ground that the Management can have control over the Noon Meal Organizers only if the candidates are appointed by them and that the Managements are providing all infrastructure facilities and cooking amenities for the preparation of noon-meal. Therefore, they must have the right to choose a person.



14. This Court, in W.P.No.13732 of 1992 delivered a Judgment that the Correspondent of the Aided Schools has no right in the administration of Nutritious Meal Programme, which is entirely run by the Government, because the entire expenses for the scheme are borne by the Government.

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15. According to the learned Additional Advocate General, in order to ensure that noon-meals are being provided to the students in the pandemic situation, G.O.Ms.No.28 was issued only for a limited period of one year and that too due to the pandemic situation. The learned Additional Advocate General submits that the selection of Noon Meal Organizer in future would be conducted as per the regular process of selection.

16. In view of the specific stand taken by the learned Additional Advocate General that G.O.Ms.No.28 is issued only for a limited period of one year and that too due to the pandemic situation, no further order is required in the writ petitions.

17. Recording the submission made by the learned Additional Advocate General, the writ petitions are disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (A.D.II)

// True Copy //

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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 Secretary,
Department of Social Welfare and
Nutritious Meals Programme,
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+1. CC to M/S.SPL.GP SR.No.761

W.P (MD) Nos.14783 of 2020 and 20048 of 2021
05.01.2022

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