



WEB COPY

W.P.(MD)No.14715 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P. (MD)No.14715 of 2020

and

W.M.P. (MD)No.12393 of 2020

Somasundaram Aided Elementary School,
Sayalkudi,
Ramanathapuram District.

... Petitioner

versus

1. The District Collector,
Ramanathapuram District,
Ramanathapuram.

2. The Personal Assistant to the Collector,
Office of the District Collector,
Ramanathapuram District,
Ramanathapuram.

3. The Commissioner of Panchayat Union,
Kadaladi Panchayat Union,
Kadaladi,
Ramanathapuram District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned notification in **செ.வெ.நா.31/September** dated 23.09.2020 passed by the first respondent insofar as appointment of Noon Meal Organizer in the petitioner school namely Somasundaram Aided Elementary School, Sayalkudi, Ramanathapuram District as mentioned in Serial No.32 of the impugned Notification is concerned and quash the same and direct the first respondent to call for the candidates list from the petitioner School Management for the post of Noon Meal Organizer in the petitioner School.

For Petitioner : Mr.K.K.Kannan

For Respondents : Mr.Veera Kathiravan,
Additional Advocate General
assisted by
Mr.S.Saji Bino,
Special Government Pleader



ORDER

This writ petition has been filed by the petitioner School, a Non-Minority School, challenging the Notification on the ground that there is no reference about the selection committee and the Government Order in G.O.Ms.No.28, dated 05.09.2020.

2. The petitioner School is a private aided school, 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, dated 03.01.1989 and G.O.Ms.No.294, Social Welfare and Nutritious Meal Programme (NMP-I) Department, dated 21.10.1993, prescribing the mode of selection for the noon-meal organizers in private schools.

3. According to the petitioner, the private school Management shall forward the list of five candidates to the District Collector and the District Collector will select a candidate from the list and thereafter, the appointment order will be issued in the name of Personal Assistant to the Collector.

4. While so, the first respondent issued various Government Orders in G.O.Ms.No.142 dated 06.07.2010, G.O.Ms.No.163, dated 18.08.2010, G.O.Ms.No.4 dated 06.01.2011 and G.O.Ms.No.72 dated 30.04.2012. In G.O.Ms.No.72, dated 30.04.2012, it was stated that every appointment should be made by the committees formed. After issuing G.O.Ms.No.72, the first respondent did not form any committee and failed to call for the candidate list from the school. Challenging the Government Orders, a series of writ petitions have been filed, wherein, this Court set aside the above Government Orders. While so, the first respondent issued a Notification dated 23.09.2020 inviting applications for the post of Noon Meal Organizer/Noon Meal Assistants in various Noon Meal Centres in Ramanathapuram District including the petitioner School. According to the petitioner, when the above said Government Orders are declared as null and void in the batch of writ petitions, the respondents have no power to make any appointment of Noon Meal Organizer. Aggrieved over the same, the present writ petition has been filed.

5. The learned Additional Advocate General appearing for the respondents submits that the petitioner School is a private aided School. 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

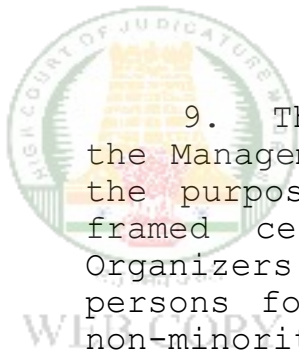


2) dated 06.01.2011 and not under G.O.Ms.No.918 dated 03.01.1989, G.O.Ms.No.294, Social Welfare Department dated 21.10.1993 and G.O.Ms.No.206, Social Welfare and Nutritious Meal Programme Department dated 13.09.1996. The appointment of Noon Meal Organizer has to be made in the aided private schools in 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. 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.

6. 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. Pursuant to the said G.O., the impugned notification was issued. Without challenging the said G.O., these writ petitions are filed. Now, the selection process was completed. It is further submitted that 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. Therefore, the writ petition is not maintainable.

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

8. 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.



9. 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

10. 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.

11. 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.

12. 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.

13. According to the learned Additional Advocate General, the impugned notification was issued based on G.O.Ms.No.28 dated 05.09.2020 and now, the selection process was completed. As rightly pointed out by the learned Additional Advocate General, this writ petition is filed without challenging the said G.O.Ms.No.28, dated 05.09.2020. According to him, in order to ensure that noon-meal is being provided to the students in the pandemic situation, G.O.Ms.No.28 dated 05.09.2020 was issued only for a limited period of one year and that too due to the pandemic situation.

14. In view of the submission made by the learned Additional Advocate General that the selection process was completed and since this writ petition is filed without challenging G.O.Ms.No.28 dated 05.09.2020, the writ petition is not maintainable. Accordingly,



the writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (A.D.II)

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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 District Collector,
Ramanathapuram District,
Ramanathapuram.
2. The Personal Assistant to the Collector,
Office of the District Collector,
Ramanathapuram District
3. The Commissioner of Panchayat Union,
Kadaladi Panchayat Union,
Kadaladi, Ramanathapuram District.

+1 CC to M/s.K.K.KANNAN, Advocate (SR-659[F] dated 06/01/2022)

W.P. (MD)No.14715 of 2020

05.01.2022

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