



WEB COPY

W.P.No.2329



IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON: 15.11.2023

DELIVERED ON: 27.11.2023

CORAM:

THE HON'BLE MR.JUSTICE K.KUMARESH BABU

W.P.No.23294 of 2010
M.P.Nos.1 & 2 of 2010

R.C.Fatima Primary School
Rep. by the Correspondent,
Rev. Fr.Packianathan,
Kethanahalli Post – 636 808,
Dharmapuri District.

...Petitioner

vs.

- 1.The Government of Tamil Nadu,
Rep. by its Secretary,
Department of Social Welfare and Nutricious Meal Programme,
Fort St.George, Chennai – 600 009.
- 2.The District Collector,
Collectorate, Dharmapuri.
- 3.The Personal Assistant (NMP) to the Collector,
Collectorate, Dharmapuri.
- 4.The Block Development Officer/
Commissioner of Panchayat Union,
Karimangalam Panchayat Union,
Karimangalam Post, Palacode Taluk,
Dharmapuri District.

5.K.Saraswathi

...Respondents



Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus to call for the records pertaining to the proceedings of the 2nd respondent dated 14.09.2010 in Na.Ka.No.26040/09/X1 and quash the same consequently directing the 2nd respondent to select a person from out of the panel dated 25.06.2009 submitted by the petitioner management.

For Petitioner : Ms.Arul Mary
for Mr.S.M.Edward Stanley

For Respondents : Mr.A.M.Ayyadurai for R1 to R4
Government Advocate

R5 – served – no appearance

ORDER

The instant Writ Petition had been directed against the order passed by the second respondent dated 14.09.2010 and consequently direct the second respondent to select a person from and out of the panel dated 25.06.2009 submitted by the petitioner management.

2.Heard Ms.Arul Mary, learned counsel appearing for Mr.S.M.Edward Stanley, counsel on record for the petitioner and Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents 1 to 4.

3.Ms.Arul Mary, learned counsel appearing for the petitioner would submit that the petitioner school is run by the Roman Catholic Diocese of



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Dharmapuri and the said Diocese is a Registered Society. The Diocese Society is also running various Educational Institutions in the Revenue Districts of Dharmapuri and Krishnagiri. She would further submit that the Nutritious Meal Programme was introduced all over Tamil Nadu in the year 1982. The said scheme provides for appointment of people to manage the aforesaid Nutritious Meal Programme. Under the said scheme, the aided school was empowered to send a panel of eligible persons to be appointed to the required post from which the appointments will be made by the respondents. The said Scheme was modified by G.O.Ms.No.294, Social Welfare and Nutritious Meal Programme Department dated 21.10.1993, wherein a Committee was formulated for appointment. But, however, the Scheme of sending a list of names for appointment was not dispensed with.

4.Then again G.O.Ms.No.206, Social Welfare and Nutritious Meal Programme Department dated 13.09.1996, on a recommendation from the Collector of Dindigul Anna District to also include the District Collectors as a Chairman to the Committee notified. Under the said Government Order, the Government directed continuance of the Committee as prescribed under G.O.Ms.No.294, Social Welfare and Nutritious Meal Programme Department dated 21.10.1993, but directed that such appointment should be approved by the District Collectors concerned.



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5. She would further submit that the issue relating to the appointment of employees under the Nutritious Meal Programme came to be considered by a Division Bench of this Court in a judgment in the case of *Aided Primary School and Others vs. District Collector and Others* reported in **2008 (1) MLJ 726**, wherein the Division Bench had held that the Government Order in G.O.Ms.No.294 or G.O.Ms.No.206 had not dispensed with the procedure of the nominations by the respective aided school, from which, the panel have to select. But, however, by proceedings dated 14.09.2010, the second respondent herein had appointed the fifth respondent in the petitioner's school without even calling for the panel as envisaged by the Government in its initial Scheme and upheld by the Division Bench of this Court. She would further submit that the order impugned is contrary to the Scheme as well as the Division Bench judgment of this Court and therefore, she would seek to interfere with the orders passed by the second respondent.

6. Countering her arguments, Mr.A.M.Ayyadurai, learned Government Advocate appearing for the respondents 1 to 4 would submit that the order of appointment impugned in this Writ petition had not been given effect to as the fifth respondent had not joined the Institution. He would submit that the Government had issued a further Government Order in G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department dated 06.01.2011,



modifying the procedure of appointment. He would further submit that presently the appointments are being made in the Government aided schools including the minority schools as formulated therein and therefore, he would submit that the prayer in the Writ Petition at present need not be entertained.

7.I have considered the rival submission made by the learned counsel appearing on either side and perused the materials placed on record.

8.Learned counsel appearing for the petitioner had not disputed the submission made by the learned Government Advocate that the fifth respondent had not joined the services of the school pursuant to the order of appointment impugned in this Writ Petition.

9.In such a view of the matter, there is no necessity to traverse into the validity of such order. Further, the procedure of appointment to the post of Nutritious Meal Organizer, Cook and Assistant have been modified by the Government Order in G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department dated 06.01.2011, the same is not the subject matter of challenge in this Writ Petition. From the reading of the aforesaid Government Order, it is also clear that a consolidated procedure has been prescribed which had been hitherto in confusion in view of various independent orders by the Government.



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10.In view of the same, I am also of the view that *lis* that had been raised in the Writ Petition need not be adjudicated any further.

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11.In fine, the Writ Petition is closed. There shall be no order as to costs.

Consequently, the connected miscellaneous petitions are closed.

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Index: Yes/No

Speaking order: Yes/No

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To
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- 1.The Secretary,
Government of Tamil Nadu,
Department of Social Welfare and Nutricious Meal Programme,
Fort St.George, Chennai – 600 009.
- 2.The District Collector,
Collectorate, Dharmapuri.
- 3.The Personal Assistant (NMP) to the Collector,
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K.KUMARESH BABU, J.

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