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W.A.No.968 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.12.2023

CORAM

THE HON'BLE Mr. JUSTICE R.SURESH KUMAR
AND
THE HON'BLE Mr. JUSTICE G.ARUL MURUGAN

W.A.No.968 of 2020

S.Deepa

... Appellant

Vs.

1.The Government of Tamil Nadu
Rep. By its Secretary,
Social Welfare and Nutritious Meal Department,
Secretariat, Chennai – 9.

2.The District Collector,
Krishnagiri District.

3.The Chief Educational Officer,
Krishnagiri.

4.The Block Development Officer,
Bargur,
Krishnagiri District.

... Respondents

Prayer : Appeal filed under Clause 15 of the Letters Patent Act, praying
to set aside the order dated 28.01.2020 in W.P.No.1868 of 2020.

For Appellant : Ms.Dhakshayani Reddy
Senior Counsel
for Mr.C.Mahendran



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For Respondent : Mr.K.V.Sajeev Kumar
Special Government Pleader
for R1 to R3
: Mr.M.Murali
Government Advocate for R4

JUDGMENT

(Judgment of the Court was delivered by R.SURESH KUMAR, J.)

This intra Court appeal has been directed against the order passed by the Writ Court dated 28.01.2020 made in W.P.No.1868 of 2020.

2. The writ petitioner is the appellant herein. The claim of the writ petitioner was that, her father-in-law had owned a property to the extent of 1.30 acres at her village, which was donated by him in the year 2006 by way of gift deed dated 21.07.2006 to the Education Department for the construction of a School building.

3. The donation made by the father-in-law of the writ petitioner is an unconditional one. In the place where it has been donated by the father-in-law of the petitioner alone the School building was constructed where the Noon Meal Programme has been started. In the Noon Meal Programme, a Noon Meal Organiser post has become vacant, for which



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the writ petitioner had made an application seeking appointment on compassionate ground taking into account the land donated by the family of the writ petitioner, but that plea was rejected by the order passed by the 2nd respondent i.e., the District Collector in his order dated 04.09.2019 which was under challenge before the Writ Court.

4. The learned Judge who heard the writ petition has dismissed the writ petition by holding that, the gift deed is an unconditional one and moreover, it is a public employment. Insofar as the public employment is concerned, only as per the rule such employment shall be made, out of the purview of the rule if at all anything is made it must be only based on the compassionate appointment not by any other method. Therefore, there has been no such appointment that could be made on the basis of the land donated to a School where the situation now has become vacant seeking for such compassionate appointment, therefore on that ground the learned Judge rejected the writ petition by order dated 28.01.2020 which is impugned herein.

5. Assailing the said order, Ms.Dhakshayani Reddy, learned Senior Counsel appearing for the appellant would contend that, the gift that has



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been made by the family of the petitioner i.e., the father-in-law of the petitioner was an unconditional one. No doubt, however since the School has been constructed in the land donated by the family of the petitioner and the post now vacant is a Noon Meal Organiser which is a creation of a Government Order and it is not a cadre post, therefore insofar as filling up of the post of Noon Meal Organiser is concerned, the job seeker must be in the same village or in the next village/hamlet within the 3 kilometers radius and he must have the minimum qualification. If these two criterias are fulfilled, no other impediment with regard to the eligibility of a job seeker to seek for such a job.

6. However, insofar as the job that has been sought for by the petitioner is concerned, the learned Senior Counsel would point out that, in a similar circumstances the job seeker, since belongs to the land donor's family, as the husband donated the land, the wife sought an appointment on compassionate ground in the very same department for the very same post of Noon Meal Organiser. That position has been accepted and recommended by the Director of Social Welfare Department to the Government and the Government also having accepted such recommendation made by the Director of Social Welfare



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Department has passed a Government Order in G.O.(P)No.149 Social

Welfare and Nutritious Meal Programme (S.N.4-2) Department dated

06.09.2016, where, the Government has passed the following order:

"After careful perusal of the recommendations of the Commissioner of Social Welfare Department, and accepting the same, permission is hereby granted to the District Collector, Krishnagiri District, for appointing Mrs.P.Chitra, wife of Mr.R.Perumal, who gifted land of an extent of 1 Acre to Government High School, Kodiapathi, Mathur Panchayat Union Krishnagiri District, to the post of Nutritious Meal Organizer, under the Revolutionary Leader M.G.R. Nutritious Meal Programme, by relaxing the age criteria under the Scheme that the persons of the age between 21 and 40 shall be appointed to the said post, (since she is now 42 years of age), on compassionate ground. Further the District Collector is hereby instructed that to following the criteria of proximity radios at the time of appointing the person.

The District Collector, Krishnagiri District is requested to forward a copy of the order appointment."

7. Relying upon this Government Order, the learned Senior Counsel would seek indulgence of this Court to pass suitable orders by interfering with the judgment of the learned Judge which is impugned in this appeal.

8. On the other hand, Mr.K.V.Sajeev Kumar, learned Special Government Pleader appearing for the respondents 1 to 3 would contend



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that, admittedly it is a donation unconditionally been made by the family member of the petitioner, moreover, the father-in-law has made the donation long years back i.e. in the year 2006 and this application seeking a compassionate appointment or appointment on the ground that the land was donated by the family of the job seeker was made only in the year 2018. Therefore there has been no connection whatsoever with the present plea of the writ petitioner and the donation that has been made with regard to the land in the year 2006.

9. Therefore, the learned Special Government Pleader would contend that, the said G.O.(P)No.149 referred to by the petitioner/appellant side may be an exception which might be applicable only to the facts and circumstances of that particular case alone, therefore it cannot be treated as an universal obligation insofar as all such donation that has been made towards the Government for the construction of School and other public buildings. Hence, the public employment i.e., Noon Meal Organiser is to be made as per the rule which has been already framed and issued by the relevant Government Order. Therefore, beyond the scope of the rule, no appointment could be made, hence such an appointment beyond the scope of the rule if at all is sought for, that



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cannot be accepted. Thus the learned Judge having considered all these aspects has rightly rejected the said plea made by the writ petitioner through the impugned order, hence the impugned order does not warrant any interference at the hands of the Division Bench, the learned Special Government Pleader contended.

10. We have considered the said rival submissions made by the learned counsel appearing for the parties and have perused the materials placed before this Court.

11. As has been rightly pointed out by the learned Special Government Pleader appearing for the respondents 1 to 3, there has been no vested right on the writ petitioner/appellant to seek for a job on compassionate appointment merely on the ground that, from his family a land has been donated where the School was constructed, in that School Noon Meal Organiser post has become vacant, therefore priority shall be given or compassionate appointment shall be made only to the petitioner. That kind of plea normally would not be entertained in public employment, therefore to that extent what has been observed by the learned Judge in the impugned order is to be sustained.



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12. However, when circumstances warrant, on case to case basis that kind of pleas can be considered by the Government as there has been precedent to that aspect, because, the G.O.(P)No.149, dated 06.09.2016 of the same Department with regard to the same post, in a similar circumstances issued by the Government makes it clear that, such kind of priority can be given for appointment in the post of Noon Meal Organiser by taking into account the land donated to the Government.

13. In this context, this Court wants to make an observation that, now a days the land cost whether in a village or in a town or in a city is costly depending upon the location. In most of the Government projects very often the Government is struggling to find out a suitable land or place.

14. When that being so, if this kind of philanthropist or genuine persons who come forward to donate their land acquired by them as their property out of their hard earned money, such a gesture shown by those donors can be reciprocated by the Government.



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15. Even in case of land acquisition for some of the projects in Tamil Nadu Electricity Department i.e., TANGEDCO, such kind of gestures being shown by the Government by issuance of Government Order to give job to one person of the family from whom the land is acquired for any Government projects. That is the logic being followed by the State Government insofar as the land donors are concerned, therefore here also the same logic can be applied.

16. That is the reason why under a similar circumstances G.O.(P)No.149 dated 06.09.2016 was issued, therefore if at all, not as a matter of right, but the petitioner can very well seek such a claim for appointment on compassionate ground as Noon Meal Organiser or Noon Meal Worker in the very same village where the School has been constructed in the land donated by her family and such a plea since is raised that can be considered sympathetically on compassionate ground by the department. Therefore, we are of the view that, the order passed by the learned Judge which is impugned herein can be modified to that extent by giving the following directions.

That there shall be a direction to the 1st respondent to take a decision on the plea raised by the petitioner/appellant



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for which a report can be sought for from the District Collector and also from the Director of Social Welfare Department as to whether such a compassionate appointment can be given to the petitioner on the ground that, the land in which the School was constructed where the post has now arisen, was the land donated by the family of the petitioner. By taking into account of the same gesture shown to similarly placed persons especially in G.O.(P) No.149 dated 06.09.2016 of the same Department which is a recent order and also taking into account of the aforesaid observation shall pass order by the 1st respondent within a period of two months from the date of receipt of a copy of this judgment.

17. With the above directions, by modifying the order which is impugned herein, this Writ Appeal is ordered accordingly. However, there shall be no order as to costs.

[R.S.K., J.] [G.A.M., J.]
08.12.2023

Index : Yes/No
Speaking Order : Yes/No
Neutral Citation : Yes/No
Sgl



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