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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.07.2023**

CORAM:

THE HONOURABLE **DR.JUSTICE ANITA SUMANTH**
AND
THE HONOURABLE **MR.JUSTICE R.VIJAYAKUMAR**

W.A.(MD)Nos.141 to 143 of 2013
and
M.P.(MD)Nos.1, 1 and 1 of 2013

W.A.(MD)No.141 of 2013:-

1.The Secretary to the Government,
Social Welfare and Nutritious Programme
(NMP-1) Department,
Fort St.George, Chennai-9.

2.The District Collector,
Virudhunagar District, Virudhunagar.

3.The Block Development Officer,
Watrop Union, Watrop, Virudhunagar District. ...Appellants

/Vs./

1.Martin Jose
2.Thangammal ...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to
set aside the order dated 17.10.2012 made in W.P.(MD)No.9572 of 2012
on the file of this Court.



W.A.(MD)No.142 of 2013:-

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1. The Secretary to the Government,
Social Welfare and Nutritious Programme
(NMP-1) Department,
Fort St. George, Chennai-9.

2. The District Collector,
Virudhunagar District, Virudhunagar.

3. The Block Development Officer,
Watrop Union, Watrop, Virudhunagar District. ...Appellants

/Vs./

1. K.M. Mohamed Ismail
2. G. Parameswari

...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 17.10.2012 made in W.P.(MD)No.9582 of 2012 on the file of this Court.

W.A.(MD)No.143 of 2013:-

1. The State of Tamil Nadu,
represented by its Secretary,
Department of Social Welfare and
Nutritious Meals Programme,
Fort St. George, Chennai- 600 009.

2. The District Collector,
Virudhunagar District, Virudhunagar.

3. The Personal Assistant (Noon Meals)
to the District Collector,
Virudhunagar District.



4.The Block Development Officer,
Rajapalayam, Virudhunagar District.

...Appellants

/Vs./

1.The Secretary,
Ambal Kala Nilayam Primary School,
Muhavur – 626 111, Virudhunagar District.

2.R.Rajeswari

...Respondents

PRAYER:- Writ Appeal - filed under Clause 15 of Letters Patent Act, to set aside the order dated 17.10.2012 made in W.P.(MD)No.10390 of 2012 on the file of this Court.

For Appellants	: Mr.K.S.Selvaganesan Additional Government Pleader
For R1	: Mr.V.Rajiv Rufus
For R2	:Mr.M.Jothi Basu (in all cases)

COMMON JUDGMENT

(Judgment of the Court was delivered by **DR.ANITA SUMANTH, J.**)

The Writ Petitioners had challenged orders of appointment based on G.O.Ms.No.4 dated 06.01.2011, setting out the basis of appointments in Noon Meal Centre. A distinction has been made therein, between appointees in Schools with minority management and other Schools.



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2.Under G.O.Ms.No.4 dated 06.01.2011, the Correspondent of the School is vested with the power to recommend five persons to the post of Noon Meal Organizer and the District Collector has the ultimate power to select one out of five persons, so short listed.

3.The Writ Court was of the view that the demarcation between the methods of appointment for the same post by different Schools was arbitrary and discriminatory apart from vesting unbridled and unreasonable powers of selection upon the District Collectors.

4.This issue is no longer res integra, having been decided in a batch of Writ Appeals in W.A.(MD)Nos.107 of 2013 and batch, *The State of Tamil Nadu and another vs M.Chandra* (order dated 28.10.2020), wherein, the Division Bench, quoting an earlier passed by them in W.A. (MD)No.792 of 2012, *The Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Meals Department, Chennai and others vs N.Muthulakshmi and another* (Order dated 22.03.2017) has allowed the appeals of the State.



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follows:

5.The operative portion of the order of Division bench is as

“86. In the light of the decisions and discussion, we hardly find any irrationality, arbitrariness or unreasonableness, behind the above stipulation made in G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011. According to us, there is basis for classification, reasonableness and clear nexus, between the classification and the object sought to be achieved. Legislature or the Government has a wide discretion in making the classification and the impugned G.O., does not reflect hostile discrimination against a class of persons. Therefore, G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011, imposing different procedure for appointment in the Nutritious Meal Centre of Government Aided Minority School and Nutritious Meal Centre of Government Aided Non-Minority School is not hit by Articles 14 or 16 of the Constitution of India.

87. Therefore, we are of the considered view that the writ Court has not considered the issue in its right perspective, and it has committed an error in law by quashing G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011.

88. In view of our above decision, the validity of the said criteria i.e. imposing different procedure for appointment for Government Aided Minority School and Government Aided NonMinority School vide G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011 is upheld.”

6.The Writ Appeals are allowed and order passed in

W.P(MD)Nos.9572, 9582 and 10390 of 2012, dated 17.10.2012 is set



aside. No costs. Consequently, connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]
17.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes
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DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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