



W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: **11.07.2023**

CORAM:

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

W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013
and

M.P.(MD)Nos.2, 2, 2, 1, 2, 1, 2, 1 and 2 of 2013

W.A(MD)No.806 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,
Dindigul District, Dindigul.

3.The Commissioner of Panchayat Union,
Reddiyar Chatram, Dindigul District.

...Appellants

/Vs./

Bharathamatha Harijan Aided Primary School,
Pappankulam,
Kasavanamappatti Post, Kannivadi,
Dindigul District,
by its Secretary, A.Kaliammal

...Respondent

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.11382 of 2012



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W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

For Appellant : Mr.K.S.Selvaganesan
Additional Government Pleader
For Respondents : No Appearance

COMMON JUDGMENT

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

The challenge in the Writ Petitions was to G.O.Ms.No.4, Social Welfare and Nutritious Meal Program dated 06.01.2011. That Government Order had made a distinction between the procedure to be followed in the appointment of a Noon Meal Organizer in Nutritious Meal Centres of Government Aided Minority Schools on the one hand and the Government Aided Non-Minority Schools on the other.

2.The impugned Government Order provided for a short list of candidates to be furnished by the District Collector out of which, one person would be selected for appointment. Learned Single Judge had found the aforesaid procedure to be arbitrary and discriminative. He had, thus, quashed G.O.Ms.No.4 as unconstitutional.

3.According to learned Judge, there could be no discrimination



W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

between the procedure followed for appointment in different kinds of schools. Further more, he felt that it gave unabridged and uncontrolled jurisdiction to the Collector to make appointments at the whims and fancies of the appointing authority, which may give rise to corruption.

4.This issue is no longer *res integra*, having been decided by the Division Bench in a batch Writ Appeals in W.A(MD)No.107 of 2013 and batch in *The State of Tamil Nadu and another vs M.Chandra* (order dated 28.10.2020). The Division Bench had agreed with the State that the basis of the impugned Government Order was proper and had accordingly, upheld the same.

5.The Bench has referred to an earlier order passed by a Division Bench in W.A.(MD)No.792 of 2012 and batch dated 22.03.2017 in *The Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Meals Department, Chennai and others vs N.Muthulakshmi and another*. Operative portion of the order dated 22.03.2017 at para Nos.86 and 88, reads as follows:

“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



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W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

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.

....

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 Non-Minority School vide G.O.Ms.No.4, Social Welfare and Nutritious Meal Programme Department, dated 06.01.2011 is upheld."

6.For the above reasons, the appeals are liable to be allowed and we do so. No costs. Consequently, connected miscellaneous petitions are closed.

[A.S.M.J.] & [R.V.J.]
11.07.2023

NCC :Yes/No
Index :Yes/No
Internet :Yes

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W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

DR.ANITA SUMANTH, J.
AND
R.VIJAYAKUMAR, J.

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W.A.(MD)Nos.806 to 808 and 1224 to 1226 of 2013

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