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W.A.(MD) No.1459 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2023

CORAM:

**THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR.JUSTICE V.LAKSHMINARAYANAN**

W.A.(MD) No.1459 of 2021

and

C.M.P.(MD) Nos.5984 of 2021& 5872 of 2022

- 1.The Director of Elementary School Education
O/o.The Directorate of Primary
Education Department
College Road, Chennai
- 2.The District Elementary School Education Officer
RMS Road, Madurai
- 3.The Secretary to the Government
Tamil Nadu School Educational Department
Secretariat, Chennai

... Appellants

-VS-

- 1.A.Katturaja
- 2.Thanalakshmi

... Respondents



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Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 16.03.2020, passed in W.P.(MD) No.4673 of 2017, on the file of this Court.

For Appellants : Mr.D.Sadiq Raja
Additional Government Pleader

For Respondents : Mr.K.Chellapandi

J U D G M E N T

[Judgment of the Court was made by S.M.SUBRAMANIAM, J.]

This writ appeal is directed against the order of the learned Single Judge, dated 16.03.2020, passed in W.P.(MD) No.4673 of 2017.

2. The first respondent gifted his family property to the Government for construction of a School. It is not in dispute that the land belonged to him was utilized by the Government and the School constructed by the Government is functioning for the benefit of the children in that locality. The first respondent, after sometime, became indigent and he is not in a position maintain himself, since he had gifted his family property. He made an application to the appellants seeking employment to his wife /



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second respondent, under the priority category of land losers. Further, it is not in dispute that the second respondent completed S.S.L.C., and registered her name in the Employment Exchange in the year 2010. However, the case of the respondents was not considered by the appellants for appointment under the priority category of land losers. Therefore, the respondents filed the writ petition before this Court.

3. The learned Single Judge, by order 16.03.2020, considered the fact regarding registration of the name of the second respondent in the Employment Exchange and further considered the fact that the first respondent gifted his family property to the Government for construction of a School and accordingly, directed the appellants to provide employment to the second respondent.

4. Learned Additional Government Pleader appearing for the appellants raised an objection with reference to the positive direction issued by the learned Single Judge to grant appointment to the second respondent. However, learned Additional Government Pleader has no objection for issuance of priority certificate to the respondents under the land losers category by the



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Revenue Authorities, which is to be registered in the Employment Exchange and according to the seniority under the priority category, the case of the second respondent is to be considered for providing appointment in any suitable posts.

5. Learned counsel appearing for the respondents raised an objection by stating that the first respondent gifted his family property voluntarily to the Government for construction of a School and therefore, he or his eligible family members are entitled to appointment under the priority category of land losers. The learned Single Judge considered the penurious circumstances of the family of the respondents and directed the appellants to provide appointment to the second respondent. Thus, the writ appeal is to be rejected.

6. We are in agreement with the view taken by the learned Single Judge that the respondents are entitled for grant of priority certificate by the Revenue Authorities. However, there are many such priority candidates / land losers waiting for appointment by registering their names in the Employment Exchange. Therefore, in the event of granting any positive



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direction to the respondents herein, the same would deprive the rights of the other eligible priority candidates, who all are waiting to secure appointment in the line of seniority. Any direction to provide appointment should not infringe the rights of the other similarly placed persons, who all are waiting to secure employment under the priority category. Therefore, we are not inclined to interfere with the findings of the learned Single Judge that the respondents are entitled to priority certificate and registration of the same in the Employment Exchange. However, the positive direction granted by the learned Single Judge to provide appointment to the second respondent alone cannot be sustained in view of the fact that several other similarly placed candidates under the priority category are waiting for longtime to secure employment and the case of the second respondent is to be considered in the line of seniority.

7. In view of the above, the second respondent is at liberty to approach the competent Revenue Authority, who in turn shall issue a priority certificate to the second respondent, after verifying the documents. Thereafter, the second respondent shall register the same in the Employment Exchange and accordingly, the case of the second respondent / eligible member of her family is to be considered for providing employment under the



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priority category in the line of seniority and by following the procedures as contemplated. Thus, the order of the learned Single Judge granting positive direction to provide employment to the second respondent alone is set aside.

8. Accordingly, the writ appeal is allowed in part. No costs.
Consequently, connected miscellaneous petitions are closed.

[S.M.S., J.] [V.L.N., J.]

16.11.2023

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

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