



W.P.(MD)No.14740 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on : 17.11.2021

Pronounced on : 06.01.2023

CORAM:

**THE HONOURABLE MR.JUSTICE B.PUGALENDHI**

W.P.(MD)No.14740 of 2020  
and W.M.P.(MD)Nos.12398 of 2020 and 2991 of 2021

St.Aloysius Primary School,  
Rep. By its Correspondent A.Joseph,  
Royappanpatti,  
Uthamapalayam Panchayat Union,  
Theni District.

... Petitioner

versus

1. The District Collector,  
Theni District.
2. The Commissioner,  
Uthamapalayam Panchayat Union,  
Theni District.
3. G.Devi  
Assistant,  
Indhu Middle School,  
Pallavarayanapatti,  
Theni District.

... Respondents



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Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorari, to call for the records relating to the order of the first respondent made in Na.Ka.No. 23419/2020/Oo.Va.11, dated Nil.09.2020, by appointing the third respondent as Noon Meal Organizer by promotion in the petitioner school and quash the same.

For Petitioner : Mr.R.Suriyanarayanan

For R1 and R2 : Mr.V.Nirmal Kumar,  
Government Advocate

### **ORDER**

This writ petition has been filed challenging the order of the first respondent appointing the third respondent as Noon Meal Organizer by promotion in the petitioner School.

2. The petitioner School is a recognized private aided minority school protected under Article 30 of Constitution of India and the same was established as a Primary School in the year 1929, offering education from Standards I to V. The State Government extended Dr.MGR Noon-Meal Scheme to the petitioner School, as the students



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of the petitioner School are hailing from poor families and all the students are benefited. The State Government also sanctioned three posts, namely, one Organizer, one Cook and one Assistant to the Noon Meal Centre attached with the petitioner School and now, the post of Noon-Meal Organizer is vacant due to superannuation of one R.Fathima on 30.04.2020. The selection procedures of Noon Meal Workers in respect of the minority aided schools are covered by G.O.Ms.No.4 (Social Welfare and Nutritious Meal Programme (NMP) Department), dated 06.01.2011, as follows:

“Appointment Procedure Nutritious Meal Centre of Government Aided Minority School – In respect of appointment of Nutritious Noon Meal Organizer, Cook and Cook Assistant for Rural areas, the Commissioner of Panchayat Union and for Urban areas, Commissioner of Municipality/Corporations should make advertisement regarding the details of vacancies and conduct interview after receiving applications and scrutinize the same and prepare a list of eligible candidates. The list should be prepared on the basis of eligibility arrived at in the interview and Manager/Head Master of the School



concerned should be allowed to go through the list of eligible persons. The School Management may recommend 5 persons from the list within 5 working days after verifying the list. After following the above said procedure in the appointment of Noon Meal Organizer, the District Collector should issue the appointment order to one person out of the five persons recommended by the Manager/Head Master of the School concerned. In respect of Cooks, Cook Assistant appointment order should be issued by the Personal Assistant (Nutritious Meal Program) to the District Collector – In respect of Minority Schools to fill up the vacancies for Noon Meal Organizers, Cook and Cook Assistant communal rotation need not be followed.”

Due to retirement of one Fathima, a vacancy arose in the post of Noon Meal Organizer in the petitioner School. But, the respondents have not notified the vacancy and they have not called for the list from the Management for selection and appointment of Noon Meal Organizer. Instead, the first respondent, vide the impugned proceedings, appointed the third respondent as Noon Meal Organizer.



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3. The learned counsel appearing for the petitioner submits that the impugned order is against G.O.Ms.No.4 and the respondents 1 and 2 have no authority to fill up the post by way of promotion without notifying the vacancies as per G.O.Ms.No.28 (Social Welfare and Nutritious Meal Programme (SW4-2) Department) dated 05.09.2020 and the impugned order has been passed without any consultation and therefore, it also affects the right conferred upon the minority institutions by Article 30 of Constitution of India.

4. The learned Government Advocate appearing for the respondents 1 and 2 submits that the appointment of Noon Meal Organizer can be made either by direct recruitment or by promotion and also on compassionate ground. The procedure contemplated under G.O.Ms.No.28 is only for direct recruitment and not for appointment by promotion. The third respondent has been appointed on promotion and not on direct recruitment. He further submits that as per G.O.Ms.No.163 (Social Welfare Nutritious Meal Programme (NMP Department), dated 18.08.2010, 25% of the vacancies ought to be filled



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up by way of promotion to the eligible serving Noon Meal Cook and Cook Assistant. Therefore, out of 103 vacancies in Theni District, 25% of the vacancies, i.e. around 26 vacancies were filled up by way of promotion and the impugned order has been passed as per G.O.Ms.No. 163 and there is no violation of any Government Order.

5. This Court paid its anxious consideration to the rival submissions made and perused the materials placed on record.

6. The Government, in order to encourage the students to come to school and to ensure that they are provided at least one time meal, introduced Noon Meal Scheme. The Scheme is subsequently developed as a Nutritious Meal Programme. Under the Nutritious Meal Programme, Noon Meal Cooks were established in every school and the Nutritious Meal Organizers were appointed in consultation with the Management of the Aided, Minority and Non-Minority institution. The Managements would propose a panel of five names to the Collector for appointment and the Collector shall approve any one of the names,



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recommended by the Management and thereafter, the Management will issue appointment orders.

7. The Government have also noticed frequent friction between the Management of the School and Nutritious Meal Organizers and for the purpose of smooth functioning of the scheme, the Government framed certain procedures for appointment of Nutritious Meal Organizers by constituting a Selection Committee with the following persons for appointing nutritious meal organizers in minority and non-minority aided schools.

|                                                  |            |
|--------------------------------------------------|------------|
| Personal Assistant (NMP to the Collector)        | - Chairman |
| Correspondent/Headmaster of the concerned School | - Member   |
| Commissioner of the concerned Panchayat Union    | - Member   |

8. The Government has also prescribed certain qualifications for the posts, vide G.O.Ms.No.163 dated 18.08.2002. While so, the Government issued G.O.Ms.No.4, Social Welfare Nutritious Meal Programme (NMP Department) dated 06.01.2012 laying down the



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guidelines for appointment. By this Government Order, the District Collector, Personal Assistant to the Collector of the Noon-Meal Organizers were authorized to select a list of persons, out of which, school would select five persons and out of five persons selected by school, one must be appointed to the post of Cook.

9. Here, in this case, the third respondent was accommodated on promotion. The respondents are also obliged to comply with the Government Order issued by the Social Welfare Department, in G.O.Ms.No.163 dated 18.03.2010 to fill up 25% of the vacancies on promotion to the eligible serving Noon Meal Cook and Cook Assistant. In compliance of the said G.O.Ms.No.163, the third respondent was promoted and posted in the existing vacancy in Theni District.

10. The Noon-Meal Scheme Programme is an exclusive programme sponsored by the Government of Tamil Nadu to encourage the rural people for education and to ensure that the students get proper food during their studies. The aided institutions are not contributing



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anything for the scheme except providing some space for the preparation of noon-meal. Therefore, they cannot claim it as a matter of right in all the appointments. This appointment has been made in accordance with G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department dated 18.09.2010 on promotion. Therefore, this Court is not inclined to interfere with the impugned order passed by the first respondent.

11. Accordingly, the Writ Petition is dismissed. If the petitioner is having any grievance with regard to the quality of food provided, it is always open to the petitioner to inform the concerned authorities, if any irregularity committed by the Noon-Meal Organizers. No costs. Consequently, connected miscellaneous petitions are closed.

06.01.2023

NCS : Yes / No.  
Index : Yes / No.  
Internet: Yes / No.  
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**B.PUGALENDHI, J.**

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To

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Theni District.
2. The Commissioner,  
Uthamapalayam Panchayat Union,  
Theni District.

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