



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated :21.04.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD).No.12096 of 2016

and

W.M.P.(MD).Nos.9228 & 9229 of 2016

Sri Kamaraj Middle School
Sivandhipuram-627 425
Ambasamudram Taluk,
Tirunelveli District,
Rep by its Manager,
Tmt.M.Mary Rajam.

... Petitioner

Vs.

- 1.The State of Tamil Nadu,
Rep by its Principal Secretary to Government,
Social Welfare & Nutritious Meal Program Department,
Secretariat, Fort St. George,
Chennai 600 009.
- 2.The District Collector,
Tirunelveli District,
Tirunelveli.
- 3.The Personal Assistant to Collector,
Noon Meal Programme,
Office of District Collector,
Tirunelveli District.
- 4.The Commissioner (In-charge)
Ambasamutram Panchayat Union,
Ambasamutram, Tirunelveli District.



5.V.Pitchammal,
Assistant,
Gopalan Primary School,
Arumugampatti, Tirunelveli District.

... Respondents

PRAYER: Writ Petition has been filed under Article 226 of the Constitution of India, to issue a writ of Certiorarified Mandamus to call for the records relating to the impugned proceedings issued by the fourth respondent in Na.Ka.No.6/012/2016, dated 04.03.2016 and the orders passed by the second respondent in Na.Ka.No.9/12134/2016, dated 28.03.2016 and quash the same and consequently directing the respondents to regularize the appointment of one Vanitha as Cook in the retirement vacancy caused by one Mallika on 29.02.2016 by adopting the method prescribed in G.O.Ms.No.294 Social Welfare & Nutritious Meal Programme Department dated 21.10.1993.

For Petitioner : Mr.F.Deepak
For Respondents : Mr.M.Lingadurai,
Special Government Pleader
for R1 to R3
: No appearance for R4 & R5

ORDER

This writ petition is filed to quash the impugned orders dated 04.03.2016 and 28.03.2016 and consequently, to direct the respondent to regularize the appointment of one Vanitha as cook in the retirement vacancy caused by one Mallika on 29.02.2016 by adopting the method



prescribed in G.O.(Ms)No.294 Social Welfare & Nutritious Meal Programme Department, dated 21.10.1993.

2. The petitioner is the Private Aided Minority Institution represented by its Manager. The first respondent has formulated a scheme to provide Noon Meals to the children. Initially the scheme was implemented in the Government School to provide noon meals to poor children, thereafter extended to private aided schools. The post was created and retained with the government and filled up by the Government alone. The said post was never ever sanctioned to any Private Minority Institution. In order to fill up the said post the Government issued G.O(Ms)No.294, Social Welfare & Nutritious Meal Programme Department, dated 21.10.1993 prescribing procedure. As per the G.O., the schools were directed to select five persons and among the said five persons, the District Collector would choose one and appoint the same person. Over a period of time several allegations were raised in selecting the persons. Hence, the Government issued G.O.Ms.No.4 Social Welfare & Nutritious Meal Programme Department dated 06.01.2011. In the said G.O., the Personal Assistant to the District Collector, will issue paper publications, calling for the eligible candidates. Thereafter, the Committee



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of three members will be constituted; one person will be the Personal Assistant to the District Collector and others are the President of Local Body and the Commissioner or Executive Officer of the Local Body. The said Committee will select five candidates and the list of the five candidates will be circulated to the School and the School would choose one candidate from among the five candidates.

3. The petitioner school had claimed that the school had appointed one Vanitha as cook in the retirement vacancy caused by one Mallika on 29.02.2016 and consequently praying to approve the said appointment as per G.O.Ms.No.294. First of all the said G.O.Ms.No.294 is not in force because of the subsequent G.O.Ms.No.4. Secondly even as per G.O.Ms.No.294 the school should furnish five persons and then the District Collector would choose one from the said five persons. The school has not followed the said procedure. But the school is claiming they have already appointed one and hence demanding to approve and regularize the said person. The school had violated the procedure prescribed under G.O.Ms.No.294 and hence they are not entitled to any relief. Further exactly for this reason the procedure stated in the said G.O.Ms.No.294 was modified. All private schools stated treating the said post is sanctioned to



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the school and started appointing their own person thereby giving a go by to the procedure prescribed under G.O.Ms.No.294. At the cost of repetition the said post is not the sanctioned post given to the school. It is the post retained by the government and the schools are not having right over the said post. Therefore, the claim of the petitioner is based on wrong notion. Hence the writ petition is liable to be dismissed.

4. Accordingly, this Writ Petition stands dismissed. There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

21.04.2023

NCC : Yes/No

Index : Yes/No

Internet: Yes/No

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To

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Tirunelveli.
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Madurai Bench of Madras High Court, Madurai.



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S.SRIMATHY, J.

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