



W.P.(MD)No.21318 of 2016

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.02.2023

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THE HONOURABLE MRS.JUSTICE S.SRIMATHY

W.P.(MD)No.21318 of 2016

and

W.M.P.(MD)Nos.15250 and 15251 of 2016

Amutha

... Petitioner

vs.

1.The District Collector,
Tirunelveli.

2.The Commissioner,
Senkottai Panchayat Union,
Senkottai, Tirunelveli District.

3.S.Tirumalai Selvi

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus, to call for the records relating to the impugned order passed by the 1st respondent in his proceedings in Na.Ka.No.N9/3902/2016, dated 07.09.2016 and to quash the same and consequently, to direct the respondents to appoint the petitioner in the post of Noon-Meal Organizer at St.Stephan Middle



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School at Bhagavathipuram Senkottai Panchayat Union, Senkottai Taluk, Tirunelveli District within a time frame as fixed by this Court.

For Petitioner : Mr.B.Prahalad Ravi
For R1 and 2 : Mr.N.Muthu Vijayan
Special Government Pleader
For R3 : No appearance

ORDER

This writ petition is filed for writ of Certiorarified Mandamus, to quash the impugned order passed by the 1st respondent in his proceedings, dated 07.09.2016 and consequently to direct the respondents to appoint the petitioner in the post of Noon-Meal Organizer at St. Stephan Middle School at Bhagavathipuram Senkottai Panchayat Union, Senkottai Taluk, Tirunelveli District within a time frame as fixed by this Court.

2. The respondents 1 and 2 had initiated recruitment process for the post of Noon-Meal Organizer and the 2nd respondent has issued a call



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Secretary to Government, Social Welfare and Nutritious Noon Meal Programme Department, vide letter, dated 04.08.2015, has directed to take necessary steps to expedite the recruitment process and fill up the existing vacancies in respect of the posts of Noon Meal Organizer and Cook Assistant and the same would be subject to the outcome of the W.A. (MD)Nos.858 of 2012 and 792 of 2012 pending before the Madurai Bench of Madras High Court and the post of Cooks cannot be filled up at this juncture because of the pendency of WA.No.1402 of 2013 in the High Court of Madras.

5. Thereafter, vide publicity was given. 17 persons including the petitioner and the 3rd respondent have applied for the said post. The 2nd respondent has sent the list of 17 persons to the 1st respondent. The 2nd respondent has sent a call letter to all the persons. A committee was constituted wherein three District officials namely,

- i. Project Officer, Pudhuvazvu Thittam, Sankarankovil
- ii. Secretary, District Panchayat, Tirunelveli



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iii. Deputy Director, Horticulture, Tirunelveli

were appointed vide proceedings N9/3902/2016 to conduct the interview on 27.08.2016 at Collectorate, Tirunelveli. Out of the persons who attended the interview on 27.08.2016, the said committee has selected 11 persons including the petitioner and the 3rd respondent for the said post. According to G.O.No.4, Social Welfare and Nutritious Noon Meals Programme Department, dated 06.01.2011, the Correspondent / Headmaster, St. Stephen Middle School, Bhagavathipuram, have been asked to attend Collectorate Tirunelveli, so as to select 5 persons from the list of selected 11 persons. The Headmaster of the said school who attended Collectorate on 06.09.2016 has selected the following 5 Persons from among the list consisting of 11 persons:

- i) P. Amutha (Petitioner)
- ii) S. Tamilarasi
- iii) L.Lakshmi
- iv) J.Kanaga Subbulakshmi
- v) L.Thirumalai Selvi (3rd respondent)



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In the said list, both the petitioner and the 3rd respondent were selected by the Headmaster.

6. The 1st respondent examined the said 5 persons carefully and selected the 3rd respondent for appointment to the said post and the said selection was based on the criteria granted in the proceedings, dated 07.09.2016, of the 1st respondent. The allegations stated in the writ affidavit are denied as incorrect. There is no question with regard to the seniority in this issue and there is no partiality, the 3rd respondent was selected since she is deserving than others. Both the petitioner and the 3rd respondent belong to Scheduled Caste community. According to the instructions contained in G.O.No.4, Social Welfare and Nutritious Noon Meal Programme Department, dated 06.01.2011, there is no need to adopt communal rotation in respect of minority schools. The residential status of the 3rd respondent has been examined during the interview and



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after considering the same the appointment order was issued. Hence, the 2nd respondent prayed to dismiss the writ petition.

7. Heard Mr.B.Prahalad Ravi, learned Counsel appearing for the petitioner and Mr.N.Muthu Vijayan, learned Special Government Pleader appearing for the respondents 1 and 2 and perused the records.

8. The contention of the petitioner is that the 3rd respondent is 26 years of age. However, at the time of submitting the application she has deliberately mentioned as 35 years and the respondents have granted more marks to the 3rd respondent because of her age. Thereafter, the application was corrected to the state that the petitioner is only 26 years of age. If the age of the 3rd respondent is taken as 26 years, the 3rd respondent would not have secured such marks.

9. The next contention of the petitioner is that the 3rd respondent has deliberately manipulated the records in her application. The 3rd



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respondent's husband's name as Muthukumar whereas she has mentioned his name as Thirumalai Kumar in the application. The said Thirumalai Kumar is the brother of the 3rd respondent. In order to become eligible for the residential status, she has deliberately mentioned her brother's name as husband's name and has obtained the said post. The 3rd respondent's husband's residence is 3 kilometers away from the said school, that is why, the 3rd respondent has deliberately misrepresented and obtained the said post.

10. The next contention of the petitioner is that in the application, the 3rd respondent has mentioned that there is no income certificate for the 3rd respondent. However, in the selection list, it has been stated that the income certificate with income as Rs.24,000/-. On perusal of the list it is seen that the income of the 3rd respondent is stated as Rs.24,000/-.

11. By scrutinizing all these records, this Court is of the considered opinion that there is deliberate misrepresentation by the 3rd respondent.



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Moreover, as per the age, the petitioner is senior to the 3rd respondent. While selecting candidates for the Noon-Meal Organizer and Cook Assistant, the older persons would be granted more marks. In the present case, the official respondents have granted 10 marks for the 3rd respondent, but the 3rd respondent is 26 years old and awarding 10 marks is illegal. As far as the resident is concerned, the petitioner is nearby the school than the 3rd respondent, but the official respondents have granted 6 marks to the petitioner but had granted 10 marks to the 3rd respondent. Admittedly, the 3rd respondent had furnished incorrect information.

12. Considering all these factors, this Court is of the considered opinion that the petitioner is eligible to be appointed in the said post than the 3rd respondent. Since the 3rd respondent is in service from 2016 onwards, the respondents 1 and 2 are directed to issue appointment order to the petitioner in any available vacancy. The said exercise shall be



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completed within a period of four weeks from the date of receipt of a copy of this order.

13. With the above said observation, the writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

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

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To

- 1.The District Collector,
Tirunelveli.
- 2.The Commissioner,
Senkottai Panchayat Union,
Senkottai, Tirunelveli District.



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S.SRIMATHY, J

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