



W.P(MD)No.1379 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 30.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE BATTU DEVANAND

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Moorthi Primary School,
Represented by its Correspondent cum Manager,
J.R. John Samuel Nallathambi,
Kandiperi,
Thachanallur Post,
Tirunelveli District.

...Petitioner

Vs.

1.The District Collector,
Tirunelveli District,
Tirunelveli.

2. The Personal Assistant to District Collector,
Noon Meal Scheme,
O/o. The District Collector,
Tirunelveli.

3. The Commissioner of Panchayat Union,
Manur Panchayat Union,
Tirunelveli.

....Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus to call for the records pertaining to the Impugned Order



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in Na.Ka.No.ing9/47111/2016 dated 30.12.2016 on the file of the Respondent No.1 and quash the same as illegal and consequently directing the Respondents to appoint a Noon Meal Organizer in the existing vacancy in the Petitioner's School by considering the proposal sent by the petitioner dated 05.02.2016.

For Petitioner : Mr.G.Karthick
For R1 & R2 : Mr.A.Sivanu Pandian
Government Advocate
For R3 : No appearance

ORDER

This Writ Petition has been filed against the order issued by the first respondent in Na.Ka.No.09ing9/47111/2016 dated 30.12.2016 and for a consequential direction to the respondents to appoint a Noon Meal Organizer in the existing vacancy in the petitioner School by considering the proposal sent by the petitioner dated 05.02.2016.

2. Though a counter affidavit has been filed on behalf of the third respondent, today there is no representation for the third



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respondent. No counter affidavit has been filed on behalf of the respondents 1 and 2.

3. Heard the learned counsel for the petitioner and the learned Government Advocate appearing for the respondents 1 and 2 and perused the record.

4. The case of the petitioner is that the petitioner school is a minority institution. The Noon Meal Organizer of the school died due to ill health on 07.07.2015. As such, the said post of Noon Meal Organizer is vacant and has not been filled up till the date of filing of the Writ Petition. The petitioner had sent a proposal dated 05.02.2016 to the respondents recommending 6 eligible candidates to the post of Noon Meal Organizer but till date no action has been taken against the said proposal. Against the inaction of the respondents, the petitioner filed W.P(MD)No.18759 of 2016 and the said Writ Petition was disposed of by order dated 30.09.2016



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directing the respondents to consider the proposal sent by the petitioner on 05.02.2016 in the light of the decision of this Court in W.P.No.499 of 2009 dated 15.04.2009 and to pass appropriate orders on merits and in accordance with law. In compliance of the said order, the respondent No.1 passed the impugned order on 30.12.2016, wherein, it is stated that one Mohamed Kani, who was working as the Noon Meal Organizer passed away on 07.07.2015 while in service and there is a proposal to appoint his legal heir to the same position on compassionate grounds. Through the impugned order, it is informed to the petitioner that the said vacancy of Noon Meal Organizer post will be filled through compassionate appointment. Aggrieved by the order dated 30.12.2016, the present Writ Petition is filed.

5. In the counter affidavit filed by the third respondent, it is stated that the petitioner has no right to receive the application *suo motu* and to send the proposal. The proposal dated 05.02.2016 of the petitioner is against G.O.Ms.No.4, Social Welfare and Nutritious



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Mean Programme Department, dated 06.01.2011 and as such,
sought to dismiss this Writ Petition.

6. The learned counsel for the petitioner contends that as per the status report placed before this Court by the third respondent, it appears that consequent to demise of one Mohamed Kani, who worked as Noon Meal Organizer in the petitioner school died on 07.07.2015, his second daughter namely, Mariam Suberiya, was appointed as the Noon Meal Organizer. Now, one Selvi, the Noon Meal Organizer has been given additional charge by the third respondent in the petitioner school.

7. On a careful examination of the status report, it appears that already the legal heir of the deceased person, who worked as the Noon Meal Organizer in the petitioner school, was appointed in other place.

8. It is very surprising to note that the first respondent in



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his proceedings dated 30.12.2016 stated that the vacancy of Noon Meal Organizer in the petitioner school will be filled through Compassionate Appointment. But in the Status report filed in the month of August 2023 (i.e after 7 years of impugned proceeding), it is stated that the legal heir of the deceased employee was appointed as the Noon Meal Organizer in Tirunelveli District as per her preference by order dated 16.12.2022. It appears the first respondent did not choose to appoint any person in the vacancy of Noon Meal Organizer in the post of the petitioner school. The action of the respondents, admittedly, is contrary to the aim and object of the "scheme of Noon Meal Programme", which is introduced for the benefit of the students studying in the Government schools.

9. In the considered opinion of this Court, the respondents shall strictly follow G.O.Ms.No.4, Social Welfare and Nutritious Mean Programme Department, dated 06.01.2011 by filling up all the vacancies of “Noon Meal Programme” within a reasonable time for



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the benefit of the students by following the procedure provided in the Government Order. Otherwise, the main object of the scheme would be defeated.

10. For the above stated reasons, this Writ Petition is disposed of directing the respondents to fill up the vacancies in the Noon Meal Programme in Tirunelveli District including the vacancy of the petitioner school within a period of 4 weeks from today.

11. No costs.

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Index : Yes / No
NCC : Yes / No
CM

To,
1. The District Collector,
Tirunelveli District, Tirunelveli.

2. The Personal Assistant to District Collector,
Noon Meal Scheme, O/o. The District Collector, Tirunelveli.

3. The Commissioner of Panchayat Union,
Manur Panchayat Union,
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BATTU DEVANAND, J.

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