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W.P.No.1552 of 2012

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.02.2024

CORAM

THE HON'BLE Mr.JUSTICE **D.BHARATHA CHAKRAVARTHY**

W.P.No.1552 of 2012

Mrs.A.Pathima Bee

... Petitioner

-Vs.-

1. The District Collector,
Villupuram, Villupuram District.
2. The District Project Officer (Incharge)
Integrated Child Development Service Scheme,
Collectorate Building,
Villupuram & District.
3. The Child Development Project Officer,
Rishivandiyam Panchayat Union,
Pagndai Koottu Road, Ariyalur Post,
Sankarapuram Taluk, Villupuram District.
4. The Zonal Deputy Tahsildar,
Sankarapuram Taluk,
Villupuram District.
5. Mrs.A.Jerina Bee @ S.Sumathi

... Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorarified Mandamus, calling for the records of the first respondent relating to the impugned order by proc.No.br/K/f/vz;/1841-m2-2009 dated 24.02.2011 and quash the same and directing the 1st respondent to consider the petitioner's representation dated



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26.12.2011 to appoint the petitioner for the post of Village Anganwadi Worker at Ilaiyanarkuppam Village for Muslim Quota, Villupuram & District within the stipulated time.

For Petitioner : Mr.J.Venkatraman
for Mr.J.Agni Selvaraju

For Respondents : Mr.S.Rajesh,
Government Advocate for R1 to R4
R5-No Appearance

ORDER

This writ petition is filed challenging the impugned order of the 1st respondent dated 24.02.2011 by which the 5th respondent was selected and appointed as Village Anganwadi Worker.

2. According to the petitioner, by a notification, applications were called for the said post of Village Anganwadi Worker. The vacancy fell under the quota of BC Muslims. The petitioner is a Backward Class Muslim and as such, she applied. As far as the 5th respondent is concerned, much before the notification, in the year 2003, she got married to one *Selvarasu* and pursuant to the marriage, she converted to Hinduism and renamed herself



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Sumathi. Her name is mentioned as *Sumathi* on the ration card as well as Voter ID. Even in the affidavit filed before the Tahsildar to get the certificate, she had not asserted herself as a Muslim and had cleverly stated herself to be an Indian. All her children bear only Hindu names. She practices Hinduism. Only for employment, she claimed herself to be from the Muslim community. Once a person converts and changes his/her religion, then for reservation, the person should be held to be one degree higher and will not be entitled to the benefit of reservation.

3. The 5th respondent, having converted herself to Hinduism, is not entitled to participate in the selection under the BC (Muslim) quota. The petitioner, being the only candidate who is under the BC (Muslim) quota ought to be selected. The respondents have not considered the case of the petitioner, who is more qualified because of higher age. The petitioner is the wife of one Ameer Basha. He was afflicted with Renal disease and was on continuous hemodialysis for a long time and ultimately died on 15.07.2012. The petitioner had a son by the name *Najiran* and unfortunately, he also died in the year 2009. The petitioner was a destitute woman all along, more specifically, at the time of call for in the year 2010.



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4. The petitioner was praying for time to obtain the destitute woman certificate and produce it before the respondents. If the petitioner could prove that she is a destitute woman, then there is age relaxation and the petitioner would have been appointed in that post. Because the 5th respondent obtained the post by playing fraud and the petitioner's case deserves consideration, hence the writ petition is filed.

5. The 1st respondent resists the writ petition by filing a counter affidavit. It is their case that as of the date of the notification, the petitioner was overaged by six months. As such she was not considered. The next suitable candidate was the 5th respondent. *Tmt.A.Jerina Bee @ S.Sumathi* who asserted herself as Muslim, produced the community certificate and her school certificates. In the said documents, her religion was only Muslim and she belonged to the Labbai Muslim community. She is entitled to the reservation and accordingly, she has been selected and appointed.

6. Heard *Mr J.Venkatraman*, learned counsel for the petitioner and *Mr.S.Rajesh*, learned Government Advocate appearing on behalf of the respondents 1 to 4.



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7. *Mr. J. Venkatraman*, learned counsel for the petitioner reiterating all the above submissions made in the affidavit filed in support of the writ petitioner, would contend that the conversion from religion dis-entitles the 5th respondent. The 5th respondent played deliberate fraud on the other respondents only for employment. The respondents cannot look away from the hard facts, which are produced before them in the form of documents such as ration card, affidavit, voter ID etc. The respondents had even granted time to the 5th respondent to produce the relevant documents in the form of School certificates etc. Had the same benefit extended to the petitioner also, she would have obtained the destitute woman certificate and produced. Therefore, the selection Committee adopted a discriminatory attitude vis-a-vis the petitioner and the 5th respondent.

8. The learned counsel also relies upon the judgment of the Hon'ble Supreme Court in *K.P. Manu Vs. Chairman, Scrutiny Committee for Verification of Community Certificate* reported in (2015) 4 SCC 1 to contend that after conversion, the 5th respondent is not entitled to claim the benefit of reservation as BC (Muslim). The learned counsel would also rely upon the judgment of this Court in *U. Akbar Ali Vs. State of Tamil Nadu*



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reported in **2022 SCC OnLine Mad 5567** more specifically paragraph 16 to contend that no person will be eligible to carry his birth even after conversion. After conversion the issue of whether a person would be entitled to the benefit of reservation after the conversion is pending adjudication before the Hon'ble Supreme Court. Muthavalli had also granted a certificate that she had married a Hindu and had changed her religion.

9. Per contra, *Mr.S.Rajesh*, the learned Government Advocate appearing on behalf of the respondents would submit that the petitioner was not eligible to be appointed. Therefore, her case was not considered. She did not produce the destitute woman certificate from the competent Authorities. Therefore, she being overaged, cannot question the appointment of the 5th respondent. Even otherwise, the appointment of the 5th respondent was made only after the scrutiny of the community certificate. Once the community certificate produced by the 5th respondent is intact and the same is not being cancelled, the Authorities have rightly acted upon the same and appointed the 5th respondent.

10. I have considered the rival submissions made on either side and perused the materials available on record.



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11. To successfully challenge the appointment of the 5th respondent, the petitioner should be qualified in the first place. Once the petitioner is over aged by six months and was not eligible to participate in the selection at all, at her behest the community or otherwise of the 5th respondent cannot be gone into. The learned counsel for the petitioner contends that the petitioner is not over-aged and she was a destitute woman, being eligible for age relaxation of another five years. The same cannot be granted by this Court or by the respondent only on the *ipse dixit* of the petitioner. There are Government Orders under which the destitute women are to be given the certificate by the competent Authorities upon fulfilment of relevant criteria and only if the certificate is granted and produced at the time of recruitment, the said benefit would enure to the petitioner.

12. Even today, though the learned counsel for the petitioner produces a widow certificate(as subsequently, in the year 2012 the petitioner's husband died), the destitute woman certificate, is not produced by the petitioner. Therefore, even though the counsel for the petitioner contends that the petitioner has prayed for some time to produce the destitute woman certificate, no such pleading is made in the affidavit filed in support of the writ petition. Nor any representation which is made to the respondents



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to the said effect is annexed. The entire case is filed only on the basis that the 5th respondent, who is unqualified, played fraud on the respondents. Therefore, the petitioner's writ petition is bound to fail.

13. As far as the 5th respondent is concerned, whether she had converted into Hinduism or not is a matter of fact. It is true that on the ration card and on the Voter ID, her name is mentioned as *Sumathi*. But at the same time, the community certificate issued to her as a Muslim Labbai community also stands as on date. After her alleged marriage in the year 2003, she underwent Higher Secondary Examination in the year 2018, in which her name is mentioned as *Jerina Bee* and not as *Sumathi*.

14. Under the circumstances, the conflicting claims as to the various documents, cannot be gone into in the present writ petition filed by the writ petitioner, who is an ineligible candidate.

15. Accordingly, finding no merits, this writ petition stands dismissed. There shall be no order as to costs.

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Index : Yes

Speaking Order : Yes

Neutral Citation Case: Yes

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