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WA No.2618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.03.2024

CORAM :

THE HONOURABLE MR. JUSTICE R. MAHADEVAN
and
THE HONOURABLE MR. JUSTICE MOHAMMED SHAFFIQ

Writ Appeal No. 2618 of 2023
and
CMP. No. 22053 of 2023

B. Vinodhini

.. Appellant

Versus

1. R.Thilagavathi

2. The District Collector
Dharmapuri District
Dharmapuri.

3. The Commissioner / Block Development Officer
Nallampalli Union
Dharmapuri District.

4. Baby
Noon Meal Organizer
Panchayat Union Primary School
Vachathi, Harur Union
Dharmapuri District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent praying to set aside the order dated 20.09.2022 passed in W.P. No.31142 of 2017.



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For Appellant

: Ms. A. Pramila
for Mr. P. Nethaji

For R1

: Ms. R. Geethalakshmi
for Mr. J. Pradeep

For R2 & R3

: Mr. Muthukumar,
Additional Advocate General
assisted by Mr. S. Yashwanth,
Additional Government Pleader

JUDGMENT

(Judgment of the Court was delivered by R. MAHADEVAN, J.)

The appellant who is a third party, is aggrieved by the order dated 20.09.2022 passed by the learned Judge, allowing the Writ Petition No. 31142 of 2017 filed by the first respondent herein.

2. The aforesaid Writ Petition No. 31142 of 2017 was filed by the first respondent herein to issue a Writ of Certiorified Mandamus to call for the records relating to the order dated 13.11.2017 passed by the second respondent and quash the appointment of the fourth respondent as illegal, incompetent and *ultravires* and consequently, direct the official respondents to appoint her in the place of the fourth respondent herein.



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3. In the affidavit filed by the first respondent / writ petitioner in WP No.31142 of 2017, she has stated that in response to the notification issued by the official respondents, she submitted her application for the post of Noon Meal Organiser and she received a call letter dated 30.06.2017 to attend a personal interview on 20.07.2017. Accordingly, she attended the interview and submitted her documents in support of her educational qualification. However, the official respondents published a list of selected candidates in which her name did not find place. On the other hand, the name of the fourth respondent was included in the selected list. According to the first respondent, she is a widow and possessing the requisite educational qualification and therefore, she ought to have been given preference. It was also stated that the first respondent is residing in the same Village where the Noon Meal Centre is situated. Stating so, the writ petition was filed to set aside the order of appointment issued to the fourth respondent herein.

4. When the writ petition was taken up, the learned Judge granted an order of interim direction directing the authorities to verify the correctness of the selection made with reference to the criteria fixed in the relevant Government Order. On the basis of such direction, the official respondents conducted an enquiry and it unfolded that the first respondent / writ petitioner



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is residing 5.500 meters away from the Noon Meal Centre and one Smt.Vinodhini (appellant) is residing 4.800 meters away. It was also stated that as per G.O. Ms. No.163, Department of Social Welfare and Nutritious Meals Scheme (NMS 2) dated 18.08.2010, the candidates for the post of Noon Meal Organiser, have to reside within the radius of 3 kilometers. Based on the same, the learned Judge, by order dated 20.09.2022, concluded that the first respondent and the appellant herein are residing beyond the radius of 3 kilometers and they are not eligible for selection and appointment. Accordingly, the learned Judge quashed the order of appointment dated 13.11.2017 and directed the official respondents to conduct a fresh selection by following the procedures contemplated as expeditiously as possible.

5. Aggrieved by the order dated 20.09.2022 of the learned Judge, the appellant, who is not a party to the writ proceedings, has filed this intra-court appeal.

6. The learned counsel for the appellant submitted that the appellant was selected and appointed to the post of Noon Meal Organiser on 13.11.2017 and she was posted in Vachathi Panchayat Union Primary School, Dharmapuri District. It is her contention that the said Noon Meal Centre was specifically



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earmarked and allotted to a MBC-Non-Priority Candidate. It is further stated that the appellant belongs to Most Backward Community and has one child.

Therefore, the selection committee rightly appointed the appellant to the post of Noon Meal Organiser and she is working for the past six years without any flaw. While so, in the writ petition filed by the first respondent, the learned Judge, without issuing any notice to the appellant or without impleading her, has cancelled the order of appointment issued to her, besides cancelling the appointment order given to the first respondent. The learned Judge did not take note of the fact that the appellant is working as Noon Meal Organiser for more than six years since 13.11.2017. In fact, the appointment of the appellant was preceded by an interview along with other candidates before the selection committee. Based on the appellant's qualification and performance in the interview, she was selected and appointed on 13.11.2017 as Noon Meal Organiser. While so, interfering with the order of appointment at this stage, has caused acute prejudice to the appellant. The learned counsel therefore prayed for allowing this appeal.

7. On the other hand, the learned Additional Advocate General appearing for the respondents 2 and 3 would submit that on the basis of enquiry conducted, it unfolded that the appellant as well as the first respondent



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did not fulfil the requisite criteria for being selected to the post of Noon Meal Organiser. For selection and appointment, it has to be shown that the appellant as well as the first respondent fulfilled all the essential criteria, such as educational qualification, age and the distance within which they reside from the noon meal centre. In the present case, it has been substantiated that the appellant as well as the first respondent are not residing within a distance of 3 kilometers from the noon meal centre. While so, the order passed by the learned Judge is perfectly in order and it does not call for any interference by this Court.

8. We have heard the learned counsel for the appellant, the learned counsel for the first respondent / writ petitioner and the learned Additional Advocate General appearing for the respondents 2 and 3 and also perused the materials placed on record.

9. The order of appointment dated 13.11.2017 issued to the fourth respondent for the post of Noon Meal Organiser, was under challenge in the writ petition, at the instance of the first respondent. It was contended by the first respondent before the writ court that the fourth respondent herein is residing beyond 3 kilometers from the noon meal centre. The learned Judge



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granted an order of interim direction, pursuant to which, an enquiry was conducted. During such enquiry, it unfolded that both the appellant as well as the first respondent herein are not residing within 3 kilometers from the noon meal centre, as required. Taking note of the same, the learned Judge passed the order dated 20.09.2022 which is impugned herein, observing that the appellant and the first respondent are not eligible for appointment. Admittedly, the appellant was not impleaded as a party to the writ proceedings. However, the fact remains that the appellant as well as the first respondent are residing beyond 3 kilometer radius from the noon meal centre. Therefore, we do not find any reason to interfere with the order passed by the learned Judge.

10. At this juncture, the learned counsel for the appellant submitted that the appellant is working as Noon Meal Organiser from 13.11.2017 for more than six years; and that, there are vacancies at Kokkarapatti and Pattavarthi Noon Meal Centres, which places are within 3 km radius from the residence of the appellant; and therefore, a direction may be issued to the official respondents to accommodate the appellant in any one of the noon meal centres mentioned above, by considering her case sympathetically.



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11. On the above submissions, the learned Additional Advocate General appearing for the respondents 2 and 3 would submit that the appointment to the post of Noon Meal Organiser would be done by following due process of law and hence, while considering the case of the eligible candidates to the above referred noon meal centres, preference will be given to the appellant, taking note of the services rendered by her.

12. The submissions so made on the side of the respondents 2 and 3 are recorded. This writ appeal stands disposed of, by directing the respondent authorities to complete the process of appointment to the post of Noon Meal Organiser in respect of the Noon Meal Centres at Kokkarapatti and Pattavarthi and pass appropriate orders, on merits and in accordance with law, as expeditiously as possible, preferably within a period of eight weeks from the date of receipt of a copy of this judgment. No costs. Consequently, connected miscellaneous petition is closed.

[R.M.D., J.] [M.S.Q., J.]

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Index : Yes / No
Internet : Yes / No
av/rsh



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To

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2. The Commissioner / Block Development Officer,
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