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W.P.No.29612 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.02.2024

CORAM :

THE HONOURABLE **DR. JUSTICE D.NAGARJUN**

W.P.No.29612 of 2016
and
W.M.P.Nos.25642 and 25644 of 2016

K.Periyathayee

... Petitioner

Vs.

1. The District Collector,
Namakkal District.
2. The Personal Assistant to
District Collector (Nutrition Meal),
Namakkal District.
3. C.Satheeswary

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus to call for the records of the respondents in connection with the impugned order issued by the second respondent in Na.Ka.No.4533/2015/Sa.Vu.Thi-1 dated 19.02.2016 and quash the same and further direct the respondents to appoint the petitioner as Cook Assistant in Vadugam village, Rasipuram panchayat Union and grant other reliefs.

For petitioner : Mr.R.Dhinesh Kumar

For R1 and R2 : Mr.Vadivelu Deenadayalan



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For R3

Additional Government Pleader
: Mr.B.Velmurugan

ORDER

This writ petition is filed seeking to quash the order issued by the second respondent in Na.Ka.No.4533/2015/Sa.Vu.Thi-1 dated 19.02.2016 and quash the same and further direct the respondents to appoint the petitioner as Cook Assistant in Vagugam village, Rasipuram panchayat Union and grant other reliefs.

2. The learned counsel for the petitioner submitted that the petitioner is a widow belonging to scheduled caste community and has not completed class VI. The first respondent has advertised vacancies for the post of Cook Assistant in Rasipuram Panchayat Union for the year 2015 and the petitioner has applied for the same under scheduled caste community and widow priority. As per G.O.Ms.No.163 Social Welfare and Nutritious meal programme Department dated 18.08.2010 certain preferences were issued for schedule case and widow category.

3. It is submitted by the learned counsel for the petitioner that



the petitioner was shortlisted for the interview and she participated in the interview and performed well. While so, the third respondent who does not belongs to scheduled caste community was appointed to the post of Cook Assistant in Vadugam village and was posted at Government Higher Secondary School, Vadugam. It is submitted further that the third respondent belongs to BC category and she is not a widow. Thereby, the third respondent does not comes under any priority category and that whenever a priority category is available appointment has to be given only to that persons belonging to that category.

4. It is further submitted by the learned counsel for the petitioner that rules of reservation has to be followed as per G.O.Ms.No. 142, Personnel and Administrative Department dated 14.10.2009, but the second respondent has not followed the same while providing appointment to the third respondent. As per the information furnished was sought under Right To Information Act 2005 the post was earmarked for General Category and that the petitioner had got lesser marks than that of the third respondent.

5. Counter affidavit has been filed by the second respondent and



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submitted that the Namakkal District administration had notified vacancies for the post of Assistant Cook for Noon Meal Scheme in Vadugam Higher Secondary School and the said post is earmarked for General category.

6. The learned counsel for the second respondent submitted that as per the advertisement the petitioner and the third respondent applied for the said post and enclosed all the relevant documents as sought for in the advertisement. Interview was scheduled on 28.01.2016 and the petitioner and the third respondent attended the interview, whereas the later performed well and obtained the required marks and got selected for the said post. The marks obtained by the third respondent as well as other candidates were sent to the District Administration by Union Officer of Rasipuram and after examining the records, P.A. (Noon Meal Programme) to Collector issued appointment order in Na.Ka.No.4533 of 2015 dated 19.02.2016. Further, as per the advertisement no where it is mentioned that the said post is reserved for Scheduled Caste community, for widow priority category and hence, the relief sought for by the petitioner cannot be granted.

7. Heard both sides and perused the materials available on



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8. It is submitted by the learned counsel for the petitioner that the petitioner is a widow and is eligible to be appointed as a Cook Assistant under Noon Meal Scheme. However, the first respondents has selected the third respondent for the said post who is a relative of a local MLA, even though she belongs to BC category and comes under Non-Priority category, whereas the petitioner is a widow and belongs to scheduled caste community.

9. According to the learned Additional Government Pleader that as per G.O.Ms.No.163 Social Welfare and Noon Meals Scheme dated 18.08.2010, the orders of Social Welfare (District) and Noon Meal Scheme for Community Rotation G.O.Ms.No.142, AR Department dated 14.10.2009 should be followed and according to which the post of Cook Assistant under Noon Meal Scheme Government Higher Secondary School, Vadugam, in Rasipuram panchayat Union, is earmarked for General category only.

10. As per the advertisement, the post of Cook Assistant under



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Noon Meal Scheme Government Higher Secondary School, Vadugam, in Rasipuram panchayat Union is earmarked for General and Non - Priority category, which means any person irrespective of community or irrespective of priority category is eligible to be appointed on merits and according to the respondents the petitioner has got only 19 marks which is lowest of the marks obtained amongst the other candidates who appeared for the interview and thereby, the petitioner is not selected for the said post.

11. Considering the above submissions of both the sides, it is clear that the post for the petitioner is competing is neither earmarked for priority category or scheduled caste community. It is an open category and the only criteria is that the applicant should be a women and the appointment was given to the third respondent who is a women candidate who had secured the top mark in the interview. Since the petitioner has got less marks in the interview she cannot question the appointment of the third respondent.

12. Accordingly, this writ petition is dismissed. Connected W.M.Ps are closed. Costs made easy.



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Internet : Yes/No
Index : Yes/No
Citation : Yes/No

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Dr.D.NAGARJUN,J.

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