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W.P.No.34754 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED : 23.10.2024**

**CORAM :**

**THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH**

**Writ Petition No.34754 of 2023**  
**and WMP No.34723 of 2023**

J.S.K.Ashwin @ Tamilvanan

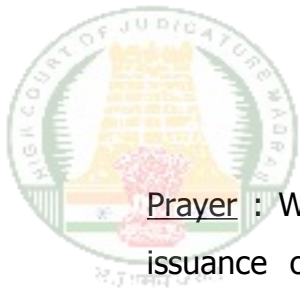
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Petitioner

-Vs-

- 1.The Director  
Rural Development Panchayatraj Department  
Panagal Building  
Chennai 600 015.
- 2.The Director of School Education (Elementary)  
DPI Campus  
College Road  
Chennai 600 006.
- 3.The District Collector  
Thirupattur District.
- 4.The Project Director  
Rural Development Panchayatraj Department  
Thirupattur District.
- 5.Personal Assistant to the Collector  
Office of the District Collector  
Thirupattur.

..Respondents



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Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Mandamus directing the respondents herein to grant employment to the petitioner to the post of Office Assistant under the notification issued by the respondents vide Notification dated 27.09.2023 by taking into account the fact that the petitioner's land has been utilized for the construction of the School building without any payment of compensation or without resorting to any acquisition proceedings or in the alternative direct the respondents to pay due compensation to the petitioner under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

For Petitioner : Mrs.Dakshayani Reddy  
Senior Counsel  
for Ms.S.Suneetha

For Respondents : Mr.P.Balathandayutham  
Special Government Pleader  
for R1, R3 to R5

Mrs.S.Mythreye Chandru  
Special Government Pleader for R2

### **ORDER**

This writ petition has been filed for the issue of a writ of mandamus directing the respondents to grant employment to the petitioner to the post of Office Assistant under the notification issued dated 27.09.2023 on the ground that the land belonging to the petitioner was utilized for construction of the School building without any payment of compensation or without resorting to any acquisition proceedings.



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2.The claim made by the petitioner in this writ petition has been objected by the respondents by filing a counter affidavit. They have taken a stand that the petitioner does not have any vested right to seek for appointment and therefore, the writ petition is liable to be dismissed.

3.Heard Mrs.Dakshayani Reddy, learned Senior Counsel for the petitioner, Mr.P.Balathandayutham, learned Special Government Pleader for R1, R3 to R5 and Mrs.S.Mythreye Chandru, learned Special Government Pleader for R2.

4.I had an occasion to deal with a similar issue in WP.No.1868 of 2020 and the writ petition was dismissed by an order dated 28.01.2020. I took into consideration the fact that the petitioner therein did not have a vested right and if employment had been given to similarly placed persons, that cannot be a ground to grant such employment to the petitioner therein.

5.The said order was taken on appeal in WA.No.968 of 2020, before the Division Bench. The Division Bench after upholding the order passed in the writ petition took into consideration certain other factors. The relevant portions in the Division Bench order dated 08.12.2023, is extracted hereunder:

*12. However, when circumstances warrant, on case to case basis that kind of pleas can be considered by the Government as there has been precedent to that aspect, because, the G.O.(P)No.149,*



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*dated 06.09.2016 of the same Department with regard to the same post, in a similar circumstances issued by the Government makes it clear that, such kind of priority can be given for appointment in the post of Noon Meal Organiser by taking into account the land donated to the Government.*

*13. In this context, this Court wants to make an observation that, now a days the land cost whether in a village or in a town or in a city is costly depending upon the location. In most of the Government projects very often the Government is struggling to find out a suitable land or place.*

*14. When that being so, if this kind of philanthropist or genuine persons who come forward to donate their land acquired by them as their property out of their hard earned money, such a gesture shown by those donors can be reciprocated by the Government.*

*15. Even in case of land acquisition for some of the projects in Tamil Nadu Electricity Department i.e., TANGEDCO, such kind of gestures being shown by the Government by issuance of Government Order to give job to one person of the family from whom the land is acquired for any Government projects. That is the logic being followed by the State Government insofar as the land donors are concerned, therefore here also the same logic can be applied.*

*16. That is the reason why under a similar circumstances G.O.(P)No.149 dated 06.09.2016 was issued, therefore if at all, not as a matter of right, but the petitioner can very well seek such a claim for appointment on compassionate ground as Noon Meal Organiser or Noon Meal Worker in the very same village where the*



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*School has been constructed in the land donated by her family and such a plea since is raised that can be considered sympathetically on compassionate ground by the department. Therefore, we are of the view that, the order passed by the learned Judge which is impugned herein can be modified to that extent by giving the following directions.*

*That there shall be a direction to the 1<sup>st</sup> respondent to take a decision on the plea raised by the petitioner/appellant for which a report can be sought for from the District Collector and also from the Director of Social Welfare Department as to whether such a compassionate appointment can be given to the petitioner on the ground that, the land in which the School was constructed where the post has now arisen, was the land donated by the family of the petitioner. By taking into account of the same gesture shown to similarly placed persons especially in G.O.(P) No.149 dated 06.09.2016 of the same Department which is a recent order and also taking into account of the afore stated observation shall pass order by the 1<sup>st</sup> respondent within a period of two months from the date of receipt of a copy of this judgment.*

6.The learned Senior Counsel appearing on behalf of the petitioner submitted that a similar direction can be issued in the present case also.

7.It will be left open to the petitioner to make a fresh representation before the Principal Secretary to Government, Rural Development and Panchayat Raj



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Department, Chennai, seeking for appointment on compassionate grounds. The same will be dealt with on its own merits and in accordance with law and a decision shall be taken by the Government within a period of twelve weeks from the date of receipt of the representation from the petitioner.

8.This writ petition is disposed of in the above terms. No costs.  
Consequently, connected miscellaneous petition is closed.

**23.10.2024**

Index : Yes/No  
NCS : Yes/No  
KP



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- 5.Personal Assistant to the Collector  
Office of the District Collector  
Thirupattur.
6. Principal Secretary to Government,  
Rural Development and  
Panchayat Raj Department,  
Chennai 600 015.



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**N.ANAND VENKATESH, J.**

KP

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