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W.P.(MD) No.21156 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

W.P.(MD) No.21156 of 2017

and

W.M.P.(MD) Nos.17419 & 17420 of 2017

S.Mariammal

... Petitioner

-vs-

1.The District Collector
Theni, Theni District

2.The P.A. (Personal Assistant)
to the District Collector
Puratchi Thalavar M.G.R.
Noon Meal Scheme
Theni, Theni District

3.Vahini

4.S.Nagaraj

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a writ of certiorarified mandamus calling for the records relating to the impugned appointment order issued by the first respondent in Na.Ka.No.



W.P.(MD) No.21156 of 2017

WEB COPY

22999/2016/U.D.11 dated 08.08.2017 in favour of the third respondent and the consequential order of the second respondent made in Na.Ka.No. 22999/2016/U.D.11 dated 11.08.2017 made in favour of the third respondent and the fourth respondent and quash the same thereby directing the respondents 1 and 2 to appoint the petitioner as Noon Meal Organiser in Hindu Primary School Noon Meal Centre, B.Sundararajapuram, Bodinyakkanur, Theni District.

For Petitioner : Mr.V.Sasikumar
for Mr.M.Joseph Thatheus Jerome

For Respondents : Mr.S.Kameswaran
Government Advocate for R1 & R2
Mr.C.Guhaseelarupan for R3 & R4

ORDER

This writ petition has been filed challenging the appointment order, dated 08.08.2017, issued by the first respondent in favour of the third respondent and the consequential order of the second respondent, dated 11.08.2017, made in favour of the respondents 3 and 4.



W.P.(MD) No.21156 of 2017

WEB COPY

2. The petitioner along with third respondent applied to the post of Noon Meal Organiser in Hindu Primary School Noon Meal Centre, B.Sundararajapuram, Bodinayakkanur, Theni District. Both of them attended the interview called for by the official respondents. The third respondent was appointed by the first respondent to the post of Noon Meal Organiser through the appointment order issued by the first respondent on 08.08.2017. After the appointment of the third respondent, she was transferred to another Village and in her place, the fourth respondent was posted. The petitioner has challenged the impugned orders, on the ground that they are tainted with fraud, *mala fides*, arbitrariness and illegality, as according to the petitioner, the third respondent has suppressed material facts while seeking employment as a Noon Meal Organiser.

3. Learned counsel for the petitioner drew the attention of this Court to the impugned appointment order, dated 08.08.2017, and would submit that the third respondent has deliberately suppressed her husband's name as seen from the appointment order, which discloses only the father's name of the third respondent. Learned counsel for the petitioner also claims



W.P.(MD) No.21156 of 2017

WEB COPY

that the petitioner's husband is having a serious medical ailment and he is bedridden and therefore, the official respondents ought to have considered the candidature of the petitioner for appointment under the priority category.

4. Learned counsel for the petitioner would also submit that the first respondent, without conducting proper interview, under the instructions of political bigwigs in the locality and the Panchayat Union, has appointed the third respondent, who is not fit to hold the said post. Learned counsel for the petitioner would also submit that the distance criteria, as seen from the recruitment notification, has not been complied with by the third respondent, as according to the petitioner, she is nearer to the place of employment than that of the third respondent. The said fact has been ignored by the official respondents, while issuing the impugned appointment order in favour of the third respondent.

5. A counter affidavit has also been filed by the first respondent denying the contentions of the petitioner.



W.P.(MD) No.21156 of 2017

WEB COPY

6. Learned Government Advocate appearing for the official respondents drew the attention of this Court to the relevant paragraphs in the counter affidavit of the first respondent and would submit that only in accordance with the recruitment notification and only based on merit, the third respondent was appointed to the post of Noon Meal Organiser. He would submit that the third respondent had satisfied the residential criteria as she was residing only within the Three Kilometres radius from the place of posting. He would also submit that only after conducting an interview, in which the petitioner as well as the third respondent participated and only based on merit, the third respondent was appointed to the post of Noon Meal Organiser. He would also submit that there is no suppression of material facts by the third respondent, as claimed by the petitioner in this writ petition.

7. Admittedly, there is no documentary evidence produced by the petitioner in this writ petition to prove that the third respondent had suppressed certain material facts, while seeking employment to the post of Noon Meal Organiser. If the petitioner is convinced that the third respondent has suppressed the material facts and is not eligible to be appointed to the



W.P.(MD) No.21156 of 2017

WEB COPY

post of Noon Meal Organiser, she ought to have filed documentary evidence to substantiate her contention, which she has miserably failed to do so. The only documents filed before this Court with regard the credentials of the petitioner are as follows:

- (a) Incapacity Medical Certificate of the petitioner's husband.
- (b) Details of vacancy for appointment to the post of Noon Meal Organiser.
- (c) Nativity Certificate.
- (d) Income Certificate.
- (e) Certificate issued by the Tahsildar, Revenue Inspector and Village Administrative Officer relating to non-employment of family members in Government and Private Services.
- (f) Call letter for interview.

Excepting the aforementioned documents, there is absolutely no documentary evidence with regard to the credentials of the third respondent and with regard to the contentions raised by the petitioner in this writ petition that there has been suppression of material facts by the third respondent. A categorical



W.P.(MD) No.21156 of 2017

WEB COPY

assertion has been made by the first respondent, in his counter affidavit, that there was no suppression of material facts by the third respondent, while seeking employment to the post of Noon Meal Organiser. They have also stated that the third respondent has satisfied the residential criteria as stipulated under the recruitment notification. They have also stated that there is no priority category and only after conducting a proper interview and only based on merit, the third respondent was appointed as a Noon Meal Organiser. When there is no evidence available on record to disprove the contentions of the respondents, the question of entertaining this writ petition does not arise.

8. In the result, there is no merit in this writ petition. Accordingly, the same is dismissed. No costs. Consequently, connected miscellaneous petitions are closed.

12.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No

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Page 7 of 9



W.P.(MD) No.21156 of 2017

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W.P.(MD) No.21156 of 2017

ABDUL QUDDHOSE, J.

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