

W.P.(MD) No.1467 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 16.07.2025

Pronounced On : 21.07.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.1467 of 2017

and

W.M.P.(MD)Nos.1176 & 1177 of 2017

J.B.Jaya Bayola,
W/o.Paulraj (Late),
Kothachanvilai Veedu,
Kalluttankuzhi,
Kollancode Post,
Kanyakumari District.

... Petitioner

Vs.

1. The District Collector,
Kanyakumari District @ Nagercoil.
2. The Personal Assistant to Collector,
Puratchi Thalaivar MGR Nutritious Meals Programme,
Kanyakumari District @ Nagercoil.
3. The Head Master.
Sridevi Primary School,
Kollemcode,
Munchirai Panchayat Union,
Kanyakumari District.
4. K.Ajithkumari,
W/o.J.Shaji (Late),
Kumbalamtheri Veedu,
Chuzhal, Palavilai Post,
Kanyakumari District.

... Respondents



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PRAYER in W.P.:

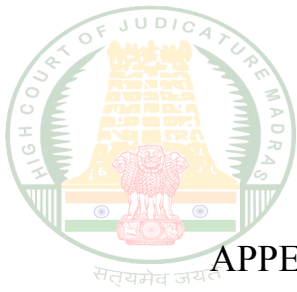
To issue a Writ of Certiorarified Mandamus or any other appropriate Writ or Order or Direction in the nature of a Writ to call for the records of the impugned appointment order passed by the 1st respondent herein in his proceedings vide Na.Ka.No.A1/1862/2016 dated 13.06.2016 in favour of 4th respondent and quash the same as illegal and consequently direct the 1st respondent herein to appoint the petitioner as Noon Meal Organiser in 3rd respondent School on the basis of the certificate verification conducted to the petitioner on 11.06.2016 and pass such further or other orders as this Court may deem fit and proper in the facts and circumstances of the case and thus render justice.

PRAYER in W.M.P.(MD)No.1176 of 2017 :

To stay the proceedings of the impugned appointment order passed by the 1st respondent herein vide Na.Ka.No.A1/1862/2016 dated 13.06.2016 in favour of 4th respondent and quash the same as illegal and consequently direct the 1st respondent pending disposal of the main writ petition and thus render justice.

PRAYER in W.M.P.(MD)No.1177 of 2017 :

To pass an order of interim direction, directing the 1st respondent herein to keep one post of Noon Meal Organiser vacant in Kanyakumari District, pending disposal of the main writ petition and thus render justice.



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APPEARANCE OF PARTIES:

WEB COPY For Petitioner : Ms.R.Brinda
for Mr.B.Brijesh Kishore

For Respondents : Mr.J.Ashok
Additional Government Pleader
for R1 to R3

: R4 - Died

J U D G M E N T

Heard.

2. The writ petitioner seeks issuance of a Writ of Certiorarified Mandamus, to quash the appointment order passed by the first respondent in Na.Ka.No.A1/1862/2016 dated 13.06.2016 appointing the 4th respondent as Noon Meal Organiser in the third respondent school and to direct the first respondent to appoint the petitioner instead, based on the certificate verification conducted on 11.06.2016.

3. It is not disputed that the petitioner had participated in the certificate verification process conducted on 11.06.2016. The petitioner claims that she is a destitute widow belonging to the same Panchayat where the third respondent school is situated, and that she was fully eligible under the relevant guidelines. Her grievance is that the 4th



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respondent, who allegedly belongs to a different Panchayat, was appointed in violation of the distance criterion laid down under G.O.(Ms.)No.163, Social Welfare and Noon Meal Programme Department, dated 18.08.2010.

4. The petitioner's primary contention rests on the fact that she resided within the same Panchayat and within close proximity to the school, approximately $\frac{1}{4}$ kilometer, whereas the 4th respondent, who was appointed, hailed from another Panchayat. The petitioner claims this violates the stipulation under G.O.(Ms.)No.163, which stipulated selection of local candidates residing within a three-kilometer radius of the Noon Meal Centre.

5. The G.O.(Ms.)No.163 dated 18.08.2010 introduced a distance-based preference for appointment, purportedly for administrative efficacy. This Court in *Anusha Malarvizhi v. The District Collector in W.P.(MD) No.19227 of 2017, dated 12.02.2025*, while drawing attention to the judgment of the Apex Court, this Court engaged in Article 16(2), which prohibits discrimination in public employment on the ground of residence and interrogated the indirect barriers such distance criteria impose on marginalised group thus:



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“ 28. In a recent ruling, the Supreme Court in ***Tanvi Behl v. Shrey Goel***, reported in **2025 SCC OnLine SC 180**, has explicitly held as follows:

“25.State cannot grant reservation in public employment on the basis of residence in that State. The exception carved out under Clause 3 of Article 16, enables only the Parliament to make a law prescribing a requirement of residence for State employment. And there is a reason behind it.”

29. The two Division Bench judgments, in re The Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Department, Chennai & Others vs. M. Muthulakshmi & Another, dated 22.03.2017 and in re State of Tamil Nadu vs. M. Chandra, W.A. (MD) No. 107 of 2013 along with the judgment of the learned Single Judge, while addressing the residential criterion of being within 3 kilometers, did not consider the bar imposed by Article 16(2) of the Constitution, nor did they recognize that any relaxation in this regard can only be made by Parliament under Article 16(3). Consequently, the only constitutionally valid and legally permissible interpretation of G.O.Ms.No.163, Social Welfare & NMP Department, dated 18.08.2010, concerning the distance criterion, is that it may serve as a rule of preference when all other factors are equal....”

6. In the present case, the records disclose that the 4th respondent was appointed on 13.06.2016 and had continued in service thereafter. It is now brought to the notice of this Court that she passed away on 08.09.2024. This development does not render the writ petition abated as

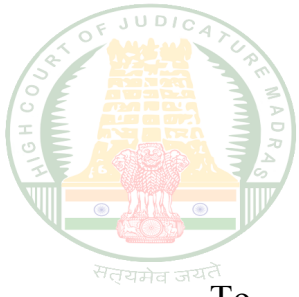


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the challenge pertains to a public appointment. The learned Additional Government Pleader has, in the counter affidavit, clarified that the selection process was conducted pursuant to a duly notified recruitment, in which 47 applications were received and 40 candidates, including the petitioner and the fourth respondent, attended the oral test held on 07.03.2016. The fourth respondent, Tmt. K. Ajithkumari, a 38 years old widow with a mentally retarded daughter, was appointed as Noon Meal Organiser in the third respondent school after being found qualified in all respects and suitable for the post. The selection was made based on her performance in the oral interview and taking into account her vulnerable social circumstances. It is not the petitioner's case that she was more meritorious or scored higher marks in the selection process. The 4th respondent having performed well in the interview, rightfully secured the appointment. The Writ Petition is misconceived and devoid of merits and is accordingly dismissed. There shall be no order as to costs. Consequently connected Miscellaneous Petitions are closed.

21.07.2025

Index: Yes / No
Speaking Order / Non-speaking Order
Neutral Citation : Yes / No
LS



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To
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Pre-delivery Judgment made in
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