

WEB COPY



W.P.(MD)No.19227 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 14.11.2024

Pronounced on : 12.02.2025

CORAM

THE HONOURABLE DR.JUSTICE A.D.MARIA CLETE

W.P.(MD).No.19227 of 2017 and

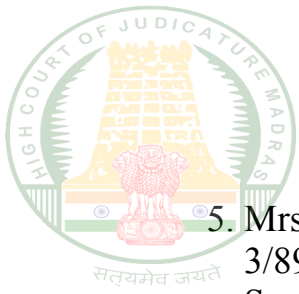
WMP.(MD).Nos.15582 and 15583 of 2017

Anusha Malarvizhi
D/o. Murugesan,
2/1 Chinna Thathampatti Village,
Mesalur Post,
Virudhunagar Taluk & District.

... Petitioner

Vs.

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Personal Assistant to the District Collector,
(Noon Meal Projects),
Virudhunagar District,
Virudhunagar.
- 3.The Block Development Officer,
Virudhunagar Panchayat Union,
Virudhunagar District.
- 4.The Head Master,
Panchayat Union Primary School,
Chinnathathampatti,
Virudhunagar District.



W.P.(MD)No.19227 of 2017

5. Mrs. Velmayil,
3/89, Middle Street,
Sorampatti Village,
Vadamalapuram Post,
Virudhunagar District.

... Respondents

Prayer: To issue a Writ of Certiorarified Mandamus or any other appropriate Writ or direction to call for the records of the first Respondent in his proceedings in Na.Ka.No.R3/968/2016 dated 00.04.2017 and quash the same as illegal, arbitrary and violation of principles of law and further direct the Respondents 1 and 2 to appoint the petitioner as a Noon~Meal Organizer in the Panchayat Union Primary School, Chinnathathampatti Village, Virudhunagar Taluk and District within the stipulated period.

Prayer in W.M.P.(MD).No.15582 of 2017: Writ Miscellaneous Petition is filed praying to dispense with the production of the original order passed by the first Respondent in his proceedings in Na.Ka.No.R3/968/2016 dated 00.04.2017 at present.

Prayer in W.M.P.(MD).No.15583 of 2017: Writ Miscellaneous Petition is filed praying to stay all further proceedings in Na.Ka.No.R3/968/2016 dated 00.04.2017 on the file of the first Respondent, pending disposal of the above Writ Petition.

For Petitioner : Mr.G.Marimuthu

For Respondents : Mr.J.Ashok,
Additional Government Pleader
for R1, R2 and R4.



WEB COPY



W.P.(MD)No.19227 of 2017

Mr.S.Sadesh Kumar for R3.

JUDGMENT

Heard.

2. In the above Writ Petition, when it was taken up for admission on 13.10.2017, the learned Special Government Pleader accepted notice on behalf of Respondents 1 to 4. For the 5th Respondent, notice was directed both through the Court and privately. The court-issued notice was received by the 5th Respondent, with acknowledgement recorded, and counsel has entered an appearance. A counter affidavit dated 16.12.2024 was filed on behalf of the 2nd Respondent.

3. The petitioner claimed to be a resident of Chinnathathampatti village and had applied for the position of Noon Meal Organiser at the Noon Meal Centre attached to the Panchayat Union Primary School, Chinnathathampatti. By the order issued by the 1st Respondent, the District Collector, dated Nil, April 2017, the 5th Respondent was selected and appointed to the position. Subsequently, the petitioner submitted a representation dated 22.05.2017 to the 1st Respondent, objecting to the appointment of the 5th Respondent.

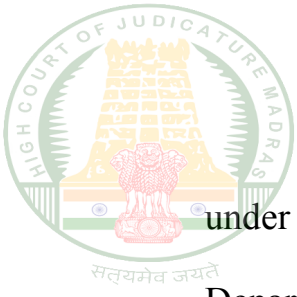


WEB COPY

4. One Sundarapandian submitted a representation under the RTI Act to the Public Information Officer in the office of the 1st Respondent, seeking information regarding the appointment of the 5th Respondent and the distance between the primary school and the village where the 5th Respondent resides. In response, it was informed that the 5th Respondent's appointment was based on her performance in the interview as per G.O.Ms.No.163, Social Welfare and Noon Meal Programme Department, dated 18.08.2010. It was also stated that her village may be located beyond a distance of 3 kilometres.

5. The contention raised was that, as per the Government Order, an individual seeking an appointment must reside within a 3-kilometer radius of the Noon Meal Centre. Therefore, the appointment of the 5th Respondent should be set aside, and the petitioner should be appointed in her place. Although in WMP(MD) No. 15583 of 2017, a request was made for a stay on further proceedings related to the appointment made in April 2017, no orders were passed on the matter.

6. In the counter affidavit, it was stated that the distance prescribed for a residential qualification for a candidate, as prescribed



W.P.(MD)No.19227 of 2017

under G.O.Ms.No. 163, Social Welfare and Noon Meal Programme Department, dated 18.08.2010, and G.O.Ms.No. 72, Social Welfare and Nutritious Meal Programme Department, dated 30.04.2012, specifies a 3-kilometer radius as a criterion, but it is not mandatory. The selection is primarily based on the performance of candidates in the interview. It was further contended that appointing a person from within the same Panchayat Union (Block), even if beyond 3 kilometres, does not violate Articles 14 and 16(1) of the Constitution. It was also stated that the 5th Respondent has been serving at the school for the past seven years without any blemish, and therefore, the petitioner is not entitled to any relief.

7. The counsel for the petitioner did not dispute either the community status of the 5th Respondent or her eligibility qualifications. Furthermore, the fact that she has been serving in the position for the past seven years following her appointment was not contested. However, reference was made to the distance criterion prescribed under G.O.Ms.No.163, Social Welfare and Noon Meal Programme Department, dated 18.08.2010, which states as follows:

“-தூரச் சுற்றளவு

நியமன

பணியிடத்திற்கும்

விண்ணப்பதாரர்



WEB COPY



W.P.(MD)No.19227 of 2017

குடியிருப்புக்கும் இடையே உள்ள தூரம் 3
கி.மீ.க்குள் இருக்கவேண்டும் (ஊராட்சி - குக்கிராமம் -
வருவாய் கிராமம் போன்றவைகள் கணக்கில் எடுத்துக்
கொள்ள தேவையில்லை)”

8. Based on the distance criterion, it was contended that the 5th Respondent resided beyond the prescribed 3#126;kilometer limit and should therefore be disqualified. Reliance was placed on the judgment of a Division Bench in The Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Department, Chennai & Others vs. M. Muthulakshmi & Another, dated 22.03.2017, wherein the clarification issued by the Government through G.O.Ms.No. 203, Social Welfare and Nutritious Meal Programme Department, dated 19.08.2005, was referenced and quoted. In this clarification, the Government provided the following interpretation of the Government Order:

“(1) Whenever there is a vacancy in any Noon Meal or Anganwadi Centre, eligible persons residing in the same hamlet should be appointed.

(2) Where qualified persons are unavailable in the hamlet, eligible persons from other neighbouring hamlets under the same village panchayat should be selected. If even such persons are not available, then qualified persons from other panchayats, not beyond the distance of 10 kilometres surrounding the said



WEB COPY



W.P.(MD)No.19227 of 2017

panchayat should be selected.

(3) As far as municipalities/corporations are concerned, eligible persons from the same Ward where there is a vacancy should be selected, and on the unavailability of persons there, eligible persons from the nearby Ward should be considered, and if even such persons are not available, then persons from the same Division should be selected”.

9. After considering the aforementioned clarification, the Division Bench rendered the following findings:

“53. From the above, it is clear that the Government have tried its best to evolve a pragmatic solution while appointing Noon Meal Organisers from places nearer to the Noon Meal Centres, and the distance criterion has been rightly fixed taking into account the practical difficulties faced while appointing persons belonging to far off places.

54. Therefore, we are of the considered view that the writ Court has not considered the issue in its right perspective, and it has committed an error in law by quashing the said criteria fixed for appointment by G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010.

55. In view of our above decision, the validity of the said criteria laying down other qualification of 3



WEB COPY



W.P.(MD)No.19227 of 2017

Kms., distance) fixed for appointment by G.O.Ms.No. 163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010 is upheld and the selection made pursuant to G.O.Ms.No.72, Social Welfare and Nutritious Meal Programme Department, dated 30.04.2012 is sustained.”

10. Referring to this clarification, in a subsequent judgment, another Division Bench in *State of Tamil Nadu vs. M. Chandra, W.A. (MD) No. 107 of 2013 and batch cases dated 28.10.2020*, reaffirmed the same position. While considering the case of a Noon Meal Organiser who resided beyond 23 kilometres, the court found that her justification~claiming residence in the village due to marriage was unsubstantiated and accordingly quashed her appointment. Subsequently, another learned judge, in *S. Baby vs. District Collector, Cuddalore*, reported in *2022 Supreme (Mad) 1038*, held as follows:

“18.....However, the Hon'ble Division Bench of this court has upheld the validity of the Government Order issued in G.O.Ms.No.163 dated 18.08.2010 and another Hon'ble Division Bench also followed the said judgment and held that such criteria fixed has got nexus between the objects are to be achieved and therefore it cannot be held as unconstitutional. That apart, the noon meal centers are to be maintained by the person who is



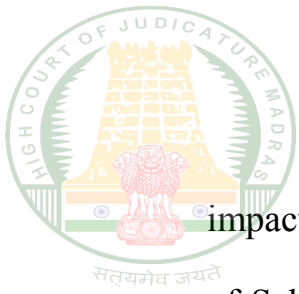
WEB COPY



W.P.(MD)No.19227 of 2017

residing in a nearby place. The candidate residing in a far away place may not be in a position to maintain the noon meal centers in an effective manner. Considering all these mitigating factors, the Government fixed the criteria of distance and accordingly issued notification. This being the factum, the contention raised on behalf of the third respondent deserves no merit consideration. As far as the case on hand is concerned, the third respondent residing beyond the radius of three kilometres and therefore in violation of the Government guidelines issued in G.O.Ms.No.163 dated 18.08.2010. That apart, the petitioner and the third respondent scored same marks of 30. In such circumstances, the date of birth is to be the criteria for selecting a candidate. The petitioner is senior in age than the third respondent and thus the selection of third respondent is in violation of the Government guidelines issued. Accordingly, the writ petition is to be considered. In view of the fact and circumstances, the order of the first respondent in proceedings in Proc. Na.Ka. Pidi. 1/296/2016 dated 11.06.2018 is quashed and the respondents 1 and 2 are directed to conduct a fresh selection for appointment to the post of noon meal organizer as expeditiously as possible.”

11. However, none of the aforementioned judgments examined the historical context of appointments in the Noon Meal Centre or the



impact of the distance rule, which effectively restricted the participation of Scheduled Caste women in the selection process. Also, the effect of any order having the sanction of Article 16 of the Constitution was not considered. Therefore, it is essential to revisit this history, along with the judgments that led to the quashing of the distance rule by this Court.

12. Before the introduction of reservations for Scheduled Caste women in Noon Meal Centre employment, selections were made based on specific guidelines issued by the government. According to the revised guidelines in G.O.Ms.No.237, Social Welfare (Noon-Meal) Department, dated 18.08.1997, the selected candidate should be a local person in the village or he should be residing within a 1 KM radius of the Noon-Meal Centre. The minimum educational qualification required was a pass in the 10th standard. Also, candidates had to be below 40 years of age at the time of appointment, and their service would be terminated upon reaching 55 years of age.

13. Subsequently, G.O.Ms.No. 303, Social Welfare and Noon-Meal Project Department, dated 19.08.2005, introduced further guidelines. This order stipulated that whenever a vacancy arose in Anganwadi Centres, a qualified local resident of the village should be



appointed. If no qualified candidate was available within the village, consideration could be given to candidates from other villages within the same Panchayat Union, provided they resided within a 10-kilometer radius of the village where the vacancy existed.

14. This requirement of distance was examined by a distinguished judge in the case of *P. Vasantha v. District Collector, Dindigul*, as reported in 2007 (6) MLJ 402. In his ruling, the judge deemed it unconstitutional and made the following observations:

“17. if the contentions of the petitioners is to be accepted then the preference should be given solely on the basis of the residence, and that will be hit by Article 16(2) of the Constitution. However, considering the fact that the post requires constant attention towards the children and the availability of the person in a nearby area is preferable and a proximity of distance by the eligible candidates may be constitutionally permissible but the selection cannot be solely on the ground of residential preferences to the exclusion of other criteria has to be accepted as it will hit Article 16(2) of the Constitution. As rightly contended by the official respondents, the proximity of residence/locality is only a preference and not a qualification by itself. Once it is established that none of the selected candidates are otherwise disqualified they cannot be



WEB COPY



W.P.(MD)No.19227 of 2017

edged out of consideration only on the ground that they were not being the residents of the locality.

18. Further, preferring a candidate from a particular hamlet to the exclusion of candidates from other hamlets in the same Village Panchayat Union or in respect of Panchayat Union Centres preferring the candidates from only one village to the exclusion of other villages living in the same panchayat union may also be arbitrary and in many times, it may also result in violating the communal roster being followed.”

15. This ruling in *re Vasantha* was upheld by a Division Bench of this Court in W.A. No. 117 of 2009, dated 01.12.2009. In paragraph 7 of the judgment, the following observations were made:

“Under such circumstances, we are not inclined to accept the submission made by the learned Government Advocate since the petitioner was residing 3 kms away from the place where the Anganwadi Center is situated she is not eligible for the post. Hence we are of the opinion, the impugned order is liable to be set aside and accordingly, the same is set aside. The respondents are directed to consider the case of the appellant and the 3rd respondents are directed to consider the case of the appellant and the 3rd respondent by affording them opportunity of hearing for the appointment for the post of Mini Anganwadi worker at Sethambal Centre, in



WEB COPY



W.P.(MD)No.19227 of 2017

accordance with law, within a period of six weeks from the date of receipt of a copy of this order.”

16. At the time of those appointments, no reservation was provided for Scheduled Caste women in employment at the noon meal centres. In the judgment in ***D. Pothumallee v. District Collector, Tiruvarur***, reported in **2010 (5) MLJ 46** the necessity of appointing Scheduled Caste women in noon meal centres was emphasized by Justice K Chandru as follows:

“8.2. Feeding of children by members of the Scheduled caste will go a long way in removing social disparities and practice of untouchability in different forms. Feeding of children belonged to different communities by a Dalit cook being resisted by the caste Hindus is another form of apartheid and it is not something new to this Country. Even during the Freedom struggle, controversies arose among the National leaders as noted above.

8.3. After bitter experiences, it was emphasised that by communal feasting and food being served to various groups by engaging cooks from underprivileged society will remove instantaneously some form of untouchability and will be a milestone in our march to an egalitarian society.”

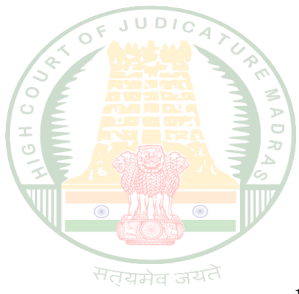


WEB COPY

17. In the judgment, the Court directed the implementation of reservations for Scheduled Castes (SCs) and Scheduled Tribes (STs) in employment under the noon meal centres:

“9.1 In the light of the above, this court has no hesitation to reject the stand taken by the respondent State and by giving a positive direction to provide for Reservation in terms of Tamil Nadu Act 45/1994, and also in the light of the interim order dated 20.4.2004 passed by the Supreme Court in W.P.(C)No.196 of 2001 in People's Union for Civil Liberties, Rajasthan Vs. Union of India and to provide for reservation for SC/STs. Till such time they provide such rules of reservation, the State is forbidden to fill up such large number of posts (as many as 20000 posts) without due representation to SC/ST communities ignoring the Constitutional mandate.”

18. Accordingly, the Government issued G.O. Ms. No. 142, Social Welfare (NMP) Department, dated 06.07.2010, introducing a provision for reservation which paved the way for over 20,000 Scheduled Caste Women employed in noon meal centers across Tamil Nadu, perhaps marking a historic milestone in the country by implementing reservation in noon meal centers.



WEB COPY

19. After the issuance of G.O. Ms. No. 142, dated 06.07.2010, a consolidated order was subsequently passed under G.O. Ms No. 163, Social Welfare and NMP Department, dated 18.08.2010. This order introduced a new distance rule, requiring a 3 km residential qualification, without considering the established constitutional principles on the matter.

20. The appointment of SC women in noon meal centres was a crucial step toward social inclusion. The subsequent imposition of a residence-based criterion requiring them to live within a three-kilometre radius of the school or institution effectively undermines the intent of such affirmative action. Instead of fostering social integration, this rule exacerbates exclusion and inequality, contradicting the very principles of affirmative action and social justice that policies like the Noon Meal Scheme seek to uphold. The residence-based criterion for employment under the Noon Meal Scheme would only reinforce their social relegation and economic marginalization. By limiting job opportunities to those living within a three-kilometre radius, the policy excludes those who, due to historical and systemic discrimination, are forced to reside in peripheral areas rather than near schools or institutions. This further entrenches social relegation and economic



WEB COPY

marginalization. By limiting job opportunities to those living within a three-kilometre radius, the policy excludes those who, due to historical and systemic discrimination, are forced to reside in peripheral areas rather than near schools or institutions. This further entrenches social inequalities, denying them equal opportunity in public employment. Such a restriction directly violates Article 16(2) of the Constitution of India, which prohibits discrimination in government employment on grounds of residence. Since only Parliament can prescribe residence-based restrictions under Article 16(3), this arbitrary condition is unconstitutional, effectively depriving marginalized women of their right to fair employment and economic upliftment.

Article 16(2) of the Constitution explicitly prohibits the State from discriminating in public employment based on various grounds, including residence. Article 16(2) states as follows:

“(2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the State.”

21. The circumstances under which this prohibition can be relaxed are solely determined by a law enacted by Parliament, and no other authority holds this power. Article 16(3), which permits the requirement



of residence as a condition for employment or appointment, states as follows:

WEB COPY

“(3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment.”

22. When a constitutional prohibition exists, the State Government or any subordinate authority cannot impose a residential qualification as a criterion for public employment. However, the State Government, through G.O. Ms. No. 203, Social Welfare & NMP, dated 19.08.2005, clarified the reasoning behind such a requirement for Noon Meal Centre appointments.

23. It was observed that when candidates were appointed from a 10-kilometer radius, excessive commuting time often resulted in delays, absenteeism, or failure to report for duty, as noted during surprise inspections by officials. Additionally, appointees who were not residents of the village frequently sought transfers to different



panchayats or districts, leading to prolonged litigation, often reaching the High Court. These challenges were seen as hindering the effective functioning of noon meal centres. Considering these difficulties, the Government issued clarifications to address the issue.

24. A similar justification provided by the State of Rajasthan for restricting the appointment of Secondary Grade Teachers exclusively to candidates from rural areas was rejected by the Supreme Court in its decision in Kailash Chand Sharma & Others v. State of Rajasthan & Others, reported in 2002 (6) SCC 562. The Court held as follows:

“?.....the residents of towns, if appointed will not be willing to serve the rural areas and they will be more interested in getting themselves transferred to ¶relatively urban area and forward districts”, does not in our view, stand a moment's scrutiny. The apprehension that 'teacher absenteeism' will be rampant if non-rural candidates are appointed..... The difficulties sought to be projected by the State appear to be more imaginary rather than real...?”

25. The reasoning provided by the Government is speculative, and even if true, it cannot serve as a valid basis for restricting the right under Article 16(2). The State Government lacks the authority to waive the



W.P.(MD)No.19227 of 2017

constitutional prohibition on imposing residential qualifications as a prerequisite for employment. Moreover, with modern advancements in transportation, numerous employees, including those in Class IV services, commute daily from distant locations.

26. When LIC of India sought to recruit attendees, it followed guidelines requiring applications to be invited from local employment exchanges. However, this practice was challenged because employment in LIC constitutes public employment, and imposing residential criteria is constitutionally prohibited. In this regard, this Hon'ble Court, in *National Life Insurance Employees Association, represented by its General Secretary & Another v. Life Insurance Corporation of India, Madras*, reported in 1990 (1) LW 271, held as follows:

“6. Though Article 15 does not mention the word 'residence Article 16, dealing with equality of opportunity in matters of public employment, states that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for or discriminated against in respect of any employment or office under the State.”



WEB COPY



W.P.(MD)No.19227 of 2017

“7.....Therefore, when the 'note' says that 'only candidates in the specified Exchanges alone are eligible to apply, it results in a classification, which is unwarranted, unjust and not provided, even in the Regulations of the respondent-Corporation. Under Section 49(2) of the Life Insurance Corporation Act, the service conditions could be regulated only by Regulations framed by it and not by administrative decisions taken by different authorities stipulating terms and conditions, which offend Constitutional provisions. In the opening part of the advertisement, the intention of extending 'preference' to those residing in the branches situate in the areas mentioned therein clearly bring about the intention of confining recruitment based on the residence of the applicants and to achieve it, the registration in the concerned Employment Exchanges had been adopted.”

27. The appointment of Secondary Grade Teachers in Tamil Nadu, which restricted selection to candidates within a specific district, was struck down by a Division Bench of this Court for violating Article 16(3). In *Unemployed Secondary Grade Teachers Welfare Association v. State of Tamil Nadu*, reported in 2008 (4) LLN 560, the Court made the following observations:

“31.In course of hearing, the learned Additional Advocate General expressed an apprehension in respect of



WEB COPY



W.P.(MD)No.19227 of 2017

qualified persons, who have got registered their names in some particular districts such as Kanyakumari or Tirunelveli, where many persons from 1989 or 1990 onwards, by virtue of their inclusion in the employment register from an earlier date, would swamp the selection relating to appointment of Secondary Grade Teacher in other districts and thereby prevent the persons whose names have been registered in such other districts from getting the employment. This submission precisely overlooks the right guaranteed under Article 16(2) in no uncertain terms. Merely because persons from a particular area are likely to secure more number of jobs in another area, such apprehension cannot be a valid legal ground to deny employment to those persons. As a matter of fact, in the absence of any Parliamentary law as envisaged under Article 16(3) permitting such discrimination, the entire submission made by the learned Additional Advocate General as well as the counsels appearing for the Interveners is bound to be rejected.

32.Learned Additional Advocate General has also expressed an apprehension that many times, persons from a particular district after getting employment, and more particularly women candidates, would seek transfer to their own native district, thereby causing difficulties for the administration to run the schools properly.

33. We do not think such a submission can have any legs to stand upon. Whether a person who is seeking transfer would be transferred or not is a matter for the



WEB COPY



W.P.(MD)No.19227 of 2017

employer to decide and the State can always make necessary provision discouraging or even preventing such transfer.

34.As a matter of fact the decision of the Supreme Court in (2002) 6 SCC 562 (cited supra) is a complete answer to such imaginary excuses putforth by the State. In a very recent decision, the Supreme Court has expressed its grave concern relating to possible balkanization of the country because of the spread of non-tolerance displayed in some parts of the country. The submissions which are now being made by the learned Additional Advocate General or the counsel for the Interveners bring only to fore the above unwelcome trend. We do not think that such a course can ever be countenanced. As a citizen of India one has to imbibe the spirit of the Constitution and follow the adage made famous by no less a personality than Justice Krishna Iyer that “Kashmir to Kanyakumari, India is one”. However, a reading of the counter filed by the State Government and the stand so painstakingly putforth by the learned Addl. Advocate General, though more in desperation rather than with any conviction, one gets the feeling that even though Kashmir to Kanyakumari - India may be one, Dharmapuri to Kanyakumari - Tamil Nadu is not one. The net result of the policy hitherto followed by some curious logic is that a duly qualified person, who is born in one part of the Tamil Nadu and gets himself registered in the district of his residence, cannot seek employment under the Government in another district of



WEB COPY



W.P.(MD)No.19227 of 2017

the very same State. If this does not amount to denial of right to equality under Article 14 and more particularly Article 16(2) and the right under Article 19(1), we fail to imagine what else can be the denial of such fundamental rights.

35. In view of the above discussion, in our considered opinion, confining the question of selection to the candidates sponsored by the Employment Exchange of a particular district without considering the willingness, availability and suitability of similar candidates who have been registered in the other district employment exchanges, is clearly violative of fundamental rights and, therefore, cannot be countenanced. The impugned G.O.Ms.No.447, dated 16.07.1996 is liable to be quashed. Accordingly, a direction is issued to consider the question of selection of eligible candidates, even though such candidates' names have been registered in other District Employment Exchanges. For the aforesaid purpose, obviously intimation is required to be given to all the District Employment Exchanges and public advertisement throughout the State is required to be made so that any willing candidate even though registered in a different district can offer his candidature.”

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:



WEB COPY



W.P.(MD)No.19227 of 2017

“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. As rightly stated in the counter affidavit, this order is merely a directory, and the 5th Respondent, having performed well in the interview, rightfully secured the appointment.



W.P.(MD)No.19227 of 2017

WEB COPY

30. The W.P.(MD) No. 19227 of 2017 is misconceived and has no merits and accordingly stand dismissed. Consequently WMP (MD) Nos. 15582 & 15583 of 2017 will also stand dismissed. No Costs.

12.02.2025

Neutral Citation: Yes/No
Index: Yes/No
Internet: Yes/No
shk/av

To

- 1.The District Collector,
Virudhunagar District,
Virudhunagar.
- 2.The Personal Assistant to the District Collector,
(Noon Meal Projects),
Virudhunagar District,
Virudhunagar.
- 3.The Block Development Officer,
Virudhunagar Panchayat Union,
Virudhunagar District.
- 4.The Head Master,
Panchayat Union Primary School,
Chinnathathampatti,
Virudhunagar District.



WEB COPY



W.P.(MD)No.19227 of 2017

A.D.MARIA CLETE,J.

Shk/av

Pre-Delivery Judgment made in
W.P.(MD).No.19227 of 2017 and
WMP.(MD).Nos.15582 and 15583 of 2017

12.02.2025