

W.P.(MD) No.21358 of 2017

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved On : 24.07.2025

Pronounced On : 21.08.2025

CORAM:

THE HONOURABLE DR. JUSTICE A.D. MARIA CLETE

W.P. (MD) No.21358 of 2017

and

W.M.P.(MD)Nos.17644 & 17645 of 2017

V.Rathika,
W/o.Villiyar,
Door No.2/236, Vadakikalam,
Ikkari Kosi Kuruchi Post,
Marungapuri Taluk,
Trichy District.

... Petitioner

Vs.

1. The District Program Officer,
Child Development Scheme,
Trichy.

2. The Program Officer,
Child Development Scheme,
Marungapuri Taluk,
Trichy District.

3. Kavitha,
W/o.Raja,
Ikkarai Kosi Kuruchi & Post,
Marungapuri Taluk,
Trichy District.

... Respondents

PRAYER in W.P.:

To issue a to issue a Writ of Certiorarified Mandamus, or any other order in the nature of writ to call for the records of the order of the 1st



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respondent vide செ.மு.ந.க.எண்.அ1/1270/2017 dated 11.09.2017 appointing the 3rd respondent as Mini Anganwadi worker in the Anganwadi center at Vadakikalam, quash the same and consequently directing the 1st and 2nd respondents to appoint the petitioner as Mini Anganwadi worker in Vadakikalam Anganwadi Center and to pass such further or other order or 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.17644 of 2017:

To dispense with the production of the original impugned order vide Se.Mu.Na.Ka.No.A1/1270/2017 dated 11.09.2017 by the 1st respondent.

PRAYER in W.M.P(MD)No.17645 of 2017:

To grant an order of interim stay of the order of the 1st respondent vide Se.Mu.Na.Ka.No.A1/1270/2017 dated 11.09.2017 appointing the 3rd respondent as Mini Anganwadi worker in the Anganwadi center at Vadakikalam Anganwadi center pending disposal of the main writ petition.

APPEARANCE OF PARTIES:

For Petitioner : Mr.C.T.Perumal, Advocate

For Respondents : Mr.J.Ashok
Additional Government Pleader for R1 &R2
: No appearance for R3
(R3 name printed vide Court order
dated 16.07.2025)



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JUDGMENT

Heard.

2. The Petitioner, seeking appointment to the post of Mini Anganwadi Worker in the Vadakikalam Anganwadi Centre under Marungapuri Taluk, had earlier filed W.P.(MD) No. 18143 of 2017, praying for a direction to appoint her to the said post. The said writ petition was dismissed by order dated 22.09.2017, upon noticing that the 3rd Respondent had already been appointed. This Court held that the appropriate course of action available to the Petitioner was to challenge the appointment of the 3rd Respondent, and liberty was granted to do so.

3. Accordingly, the present writ petition has been filed challenging the appointment of the 3rd Respondent, made vide order dated 11.09.2017. When the writ petition came up for admission on 22.11.2017, notice was accepted on behalf of the 1st and 2nd Respondents, and notice was ordered to be served on the 3rd Respondent.

4. On behalf of the 2nd Respondent, a counter affidavit dated 29.01.2018 was filed. The Petitioner filed a rejoinder affidavit dated

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13.09.2024 and also submitted written arguments dated 28.07.2025. In the counter affidavit filed by the 2nd Respondent, the reason assigned for selecting the 3rd Respondent is set out as follows:—

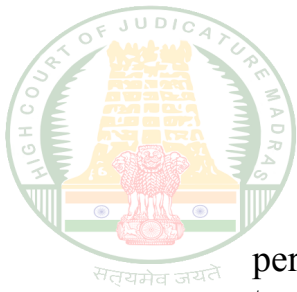
“5. It is submitted that the marks obtained by the candidates in the interview are as follows:-

Sl.No. and name	Residence	Age	Edu.Qual./ differently abled person	Social status / general knowledge	Total Marks
(1)Radhika	2 km 2 marks	26 years 2 marks	SSLC 5 mark 40% 4 marks	Nil 2 marks	15 marks
(2) Indira	2 Km 2 marks	30 years 6 marks	12 th std., 4 marks	Nil 3 marks	15 marks
(3) Ranjitha	Nearby center 3 marks	25 years 1 mark	SSLC 5 mark	Nil 4 mark	13 marks
(4) Kavitha	0.5 Km 2 marks	28 years 4 marks	B.Com 2 marks	Nil 9 marks	17 marks
(5) Selvarani	1 Km Nil	24 years Underage	SSLC Nil		Not eligible
(6) Geethmani	5 Km 1 mark	32 years 8 marks	12 th 3 marks	Nil 2 marks	14 marks

As the 3rd respondent has secured more marks than other candidates she was appointed as Mini Anganwadi Worker in Vadakikalam Anganwadi Center.

6. Regarding the averment made in paras Nos. 5 to 14, it is submitted that the residence of the 3rd respondent is within 0.5 km and hence she was rightly awarded 3 marks for the residence. As the petitioner's residence is within 2 km she was awarded with 3 marks for residence.

7. Regarding the averments in grounds (a) to (f) it is submitted that the 3rd respondent was appointed as Mini Anganwadi Worker in Vadakikalam Anganwadi Center only as



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per G.O.Ms.No.110 and after conducting interview in a transparent manner.”

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5. However, in her rejoinder affidavit and in the written arguments, the Petitioner contested the stand taken by the Respondents and placed reliance on G.O.Ms.No.110, Social Welfare and Nutritious Meal Programme (SW7) Department, dated 14.05.2012. Paragraph 2.8 of the said Government Order prescribes the residential criteria for aspirants to the post of Mini Anganwadi Worker, which reads as follows:—

“2.8 Residency:

The Government direct that the applicant should be the resident of the same hamlet. If no eligible / suitable candidate from the same hamlet is available, the candidates from the neighbouring hamlets of the same panchayat of the particular centre shall be considered. Even then, eligible / suitable candidates are not available, the candidates from the neighbouring panchayats located within 10 kms shall be considered for the appointment of Anganwadi worker.

In respect of Anganwadi centres in the Municipality / Corporation area, the applicant residing in the same ward shall be considered. If no eligible / suitable candidate from the same ward is available the candidates from the nearby ward shall be considered. Even then the eligible candidates are not available, candidates from the Division shall be considered for appointment of Anganwadi worker.”



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6. According to the Petitioner, the aforesaid Government Order is similar to G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, and the subsequent clarification issued in G.O.Ms.No.203, Social Welfare and Nutritious Meal Programme Department, dated 19.08.2005. These provisions came to be considered by a Division Bench of this Court in ***The Secretary to Government, Social Welfare and Nutritious Meal Programme Department & Others v. M. Muthulakshmi & Another, in W.A. No. 792 of 2012 and batch cases, decided on 22.03.2017.*** In paragraphs 53 to 55 of the said judgment, it was held as follows:

“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.



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

7. The reasoning adopted by the Division Bench, though supported by reference to certain other precedents, may not hold good in the light of the long and chequered history surrounding the distance rule. Given the numerous litigations on this issue, it becomes necessary to trace the entire history relating to the appointment of Noon Meal Organisers and the prescription of residential criteria for such appointments.

8. In G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, the Government prescribed the distance rule in the following terms:—

“ தூரச்சுற்றளவு:

நியமன பணியிடத்திற்கும் விண்ணப்பதாரர்
குடியிருப்புக்கும் இடையே உள்ள தூரம் 3
கி.மீக்குள் இருக்க வேண்டும் (ஊராட்சி □ குக்கிராமம் -
வருவாய் கிராமம் போன்றவைகள் கணக்கில்
எடுத்துக்கொள்ள தேவையில்லை)”.



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9. A Division Bench, in *The Secretary to Government of Tamil Nadu, Social Welfare and Nutritious Meal Programme Department, Chennai & Others v. M. Muthulakshmi & Another*, dated 22.03.2017, referred to and extracted the clarification issued by the Government vide G.O.Ms.No.203, Social Welfare and Nutritious Meal Programme Department, dated 19.08.2005. In that clarification, the Government clarified G.O.Ms.No.163 in the following terms:—

“(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 kilometers surrounding the said 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.”



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10. After referring to the said clarification, the Division Bench

proceeded to hold as follows:—

“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 criteria 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 (i.e. laying down other qualification of 3 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.”

11. Referring to the aforesaid clarification, in a subsequent judgment, another Division Bench in *State of Tamil Nadu v. M. Chandra, W.A.(MD) No.107 of 2013 and batch cases, dated 28.10.2020*, reiterated the same position. While dealing with the case of a Noon Meal Organiser appointed despite residing beyond 23 kilometres from the place of appointment, the Court found that her explanation—that she had



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married a person residing in that village—was not substantiated, and accordingly quashed her appointment. Subsequently, in ***S. Baby v.***

District Collector, Cuddalore, reported in ***2022 Supreme (Mad) 1038***, a

learned Single Judge 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 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 kilometers 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.”

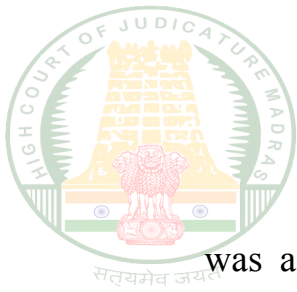


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12. However, in none of the aforesaid judgments was the historical background leading to the appointment of employees in Noon Meal Centres examined, nor was the impact of the distance rule — which effectively denied Scheduled Caste women the opportunity to participate in the selection process — taken into account. Equally, the effect of any such rule or order having the sanction of Article 16 of the Constitution was never considered. It is, therefore, necessary to recapitulate that history, together with the judicial pronouncements that culminated in the quashing of the distance rule by this Court.

13. Before the introduction of reservation for Scheduled Caste women in employment in Noon Meal Centres, selections were made on the basis of certain guidelines issued by the Government. As per the revised guidelines in G.O.Ms.No.237, Social Welfare (Noon-Meal) Department, dated 18.08.1997, the person to be selected should be a local resident of the village or reside within a one-kilometre radius of the Noon Meal Centre. The minimum age prescribed was 20 years and the maximum 35 years, with relaxation up to 40 years in the case of widows and destitute women. The minimum educational qualification required



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was a pass in X Standard. At the time of appointment, the candidate should be below 40 years of age, and the service would come to an end upon the incumbent attaining 55 years of age.

14. Subsequently, under G.O.Ms.No.303, Social Welfare and Noon-Meal Project Department, dated 19.08.2005, further guidelines were issued. It was stipulated therein that, wherever a vacancy arises in Anganwadi Centres, a qualified local resident of the village must be appointed. In the event of non-availability of a qualified person from that village, the names of candidates from other villages within the same Panchayat Union, located within a 10-kilometre radius, could be considered for such appointment.

15. This prescription of distance was considered by a learned Single Judge in *P. Vasantha v. District Collector, Dindigul*, reported in **2007 (6) MLJ 402**, and was held to be unconstitutional. It was observed as follows:—

“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



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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 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.”

16. This decision was affirmed by a Division Bench of this Court in *W.A. No. 1707 of 2009, dated 01.12.2009*. In paragraph 7 of the said judgment, it was observed as follows:—

“In this context, we may profitably refer to a judgment of a learned Single Judge of this Court rendered in the case of *P.Vasantha Vs. District Collector, Dindigul District* reported in *2007 6 MLJ 402*, where the learned Single Judge has observed that preferences based upon the locality if only a preference and not a basic qualification and if preference has been extended solely based upon the residence of a candidate to the exclusion of other criteria, the same will be hit by Article 16(2) of the Constitution.”

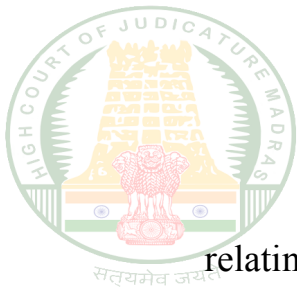


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17. At the time of those appointments, no reservation for Scheduled Caste women was provided in the employment of Noon Meal Centres. In *D. Pothumallee v. District Collector, Tiruvarur*, reported in **2010 (5) MLJ 46**, a direction was issued to provide reservation for Scheduled Castes and Scheduled Tribes in such employment. The said direction was accepted by the Government, and accordingly G.O.Ms.No. 142, Social Welfare and Nutritious Meal Programme Department, dated 06.07.2010, was issued providing for such reservation. This measure led to the employment of as many as 25,000 Scheduled Caste women in Noon Meal Centres across Tamil Nadu, creating a landmark in the entire country by introducing reservation in this sector for the first time.

18. Subsequent to the issuance of the aforesaid Government Order, a consolidated order was issued in G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, wherein a new condition — the distance rule prescribing a three-kilometre residential qualification — was introduced without reference to the constitutional principles evolved in this regard. Article 16(2) of the Constitution of India prohibits the State from discriminating, in matters



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relating to public employment, on various grounds, including residence.

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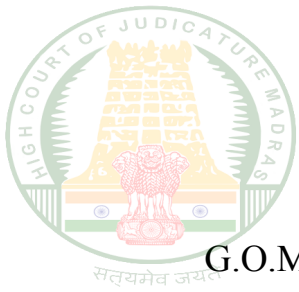
Article 16(2) of the Constitution of India reads as follows:—

“16(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.”

19. The circumstances under which such a prohibition can be relaxed are circumscribed by the Constitution itself and can only be effected by a law made by Parliament; the power does not vest in any other authority. Article 16(3) of the Constitution of India provides for the requirement of residence as a condition for employment or appointment in certain cases, and reads as follows:—

“16(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.”

20. When such is the constitutional prohibition, it is not open to the State Government or any subordinate authority to prescribe residential qualification as a criterion for entry into public employment. In



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G.O.Ms.No.203, Social Welfare and Nutritious Meal Programme

Department, dated 19.08.2005, the State Government issued certain clarifications pointing out that, when appointments to Noon Meal Centres were made from a radius of 10 kilometres, considerable time was lost in commuting such distances, and in many cases, the appointees failed to attend duty — a fact noticed during surprise inspections by officials. It was further noted that, if the appointee was not a resident of the concerned village, he or she often sought transfer to another Panchayat or district, and such matters frequently reached the High Court, hampering the effective functioning of the Noon Meal Centres. Taking into account these difficulties, the Government issued the said clarifications.

21. A similar justification advanced by the State of Rajasthan, in relation to the appointment of Secondary Grade Teachers exclusively from rural areas, was rejected by the Hon'ble Supreme Court in ***Kailash Chand Sharma 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



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absenteeism' will be rampant of non-rural candidates are appointed....The difficulties sought to be projected by the State appear to be more imaginary rather than real.”

22. The aforesaid reasoning advanced by the Government is, at best, speculative, and even if assumed to be true, cannot form the basis for restricting the constitutional right guaranteed under Article 16(2). The State Government has no power to grant a waiver of the prohibition against prescribing residential qualification as a prerequisite for public employment. Apart from this, with the advancement in transportation facilities, there are thousands of employees, even in Class IV services, who commute daily from distant places.

23. When the Life Insurance Corporation of India sought to recruit Attenders, its guidelines required applications to be invited only from local employment exchanges. This was challenged on the ground that employment in the LIC constitutes public employment, and that the constitutional injunction against prescribing residential criteria under Article 16(2) stood violated. This Hon'ble Court, in *National Life Insurance Employees Association*, represented by its **General Secretary and Another v. Life Insurance Corporation of India, Madras**, reported in **1990 (1) LW 271**, held as follows:—



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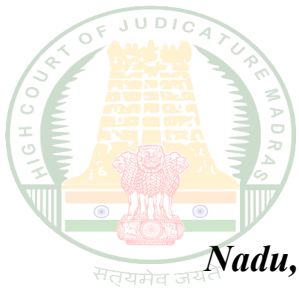


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“6. "Though Art.15 does not mention the word 'residence' Art.16, dealing with equality of opportunity in matters of public employment, states that no citizen shall, on grounds of religion, race, caste, sex, descent, place of birth, residence or any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

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 S. 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."

24. The appointment of Secondary Grade Teachers in Tamil Nadu, restricted to candidates within the concerned district, was struck down by a Division Bench of this Court on the ground that it violated Article 16(2) of the Constitution of India, holding that the State has no power to prescribe residential criteria in view of Article 16(3). In *Unemployed Secondary Grade Teachers Welfare Association v. State of Tamil*



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Nadu, reported in **2008 (4) LLN 560**, it was observed as follows:—

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



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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 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



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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.”

25. In a very recent decision, the Hon’ble Supreme Court, in ***Tanvi Behl v. Shrey Goel***, reported in ***2025 SCC OnLine SC 180***, has categorically held as follows:—

“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.”

26. The Division Bench judgment relied upon by the Petitioner, while dealing with the residential criteria of being within three kilometres, did not examine the constitutional bar under Article 16(2) of the Constitution of India, nor the fact that any relaxation in this regard can be made only by Parliament under Article 16(3). Therefore, the only constitutionally permissible and legally sustainable interpretation of G.O.Ms.No.163, Social Welfare and Nutritious Meal Programme Department, dated 18.08.2010, in relation to the distance criteria, is to



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treat it at the highest as a rule of preference, applicable when all other factors are equal. As rightly pointed out in the counter affidavit, the said provision is only directory in nature, and the 5th Respondent, having secured high marks in the interview, was rightly appointed.

27. Therefore, the distance rule cannot be treated as a criterion for either inclusion or exclusion of a candidate. In the present case, the Petitioner had secured 15 marks, whereas the 3rd Respondent had secured 17 marks, thereby establishing a superior claim. Although the Petitioner asserted that she was residing within 40 metres of the centre, it is an admitted fact that the 3rd Respondent was residing within two kilometres thereof. Having obtained higher marks in the selection and being within the distance limit prescribed, the 3rd Respondent's appointment cannot be faulted. This is, therefore, not a fit case to entertain the writ petition. Accordingly, the writ petition stands dismissed. The connected W.M.Ps. also stand dismissed. No costs.

21.08.2025

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

1. The District Program Officer,
Child Development Scheme,
Trichy.
2. The Program Officer,
Child Development Scheme,
Marungapuri Taluk,
Trichy District.



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W.P.(MD) No.21358 of 2017

DR. A.D. MARIA CLETE, J.

LS

Pre-delivery Judgment made in
W.P. (MD) No.21358 of 2017

21.08.2025