

(2010) 08 MAD CK 0159

In the Madras High Court

Case No : Writ Petition No. 10272 of 2010 and M.P. No. 1 of 2010

Secretary Aided Primary School

APPELLANT

Vs

The District Collector, The Personal Assistant to Collector of
Cuddalore (NMP) and The Commissioner/Block Development
Officer Panchayat Union

RESPONDENT

Date of Decision : 10-08-2010

Acts Referred:

Citation : (2010) 08 MAD CK 0159

Hon'ble Judges : K.B.K. Vasuki, J

Bench : Single Bench

Advocate : S.N. Ravichandran, for the Appellant; V. Viswanathan, Additional Government Pleader for RR1 and 2 and R. Neelakandan, Government Advocate for R3, for the Respondent

Judgement

K.B.K. Vasuki, J.—On consent, the writ petition is taken up for final hearing.

2. The writ petition is filed for issuing appropriate direction to the respondents to select and appoint any suitable persons for the post of Noon

Meal Organiser from the list of five candidates dated 02.03.2009, submitted by the petitioner's school as per G.O.Ms. No. 294, Social Welfare

and Nutritious Meal Programme (NMP-I) Department, dated 21.10.1993.

3. The short point arises for the consideration of this Court in this writ petition as to whether the selection committee for selecting persons to the

post of Noon Meal Organisers in the minority/nonminority aided school centres are bound to appoint the Noon Meal Organisers only from and out

of the list of five candidates sponsored by the school management or not. The petitioner's school has in support of its contention that the selection

can be made only from and out of the list of five persons sponsored by the

school management relied upon the Government Order in G.O.Ms. No.

294 dated 21.10.1993 and the subsequent orders made by this Court in various writ petitions and writ appeals upholding the selection process as

laid down in the said G.O. The relevant G.O. dated 21.10.1993 and the order of this Court dated 18.02.2009 in W.P. No. 7566 of 2009 and the

order dated 29.09.2009 in W.A. No. 157 of 2009 are all enclosed at pages 2, 4 to 6 and 11 to 13 of the typed set of papers filed by the

petitioner herein.

4. The cause of action for filing this writ petition arose when the first respondent/ the District Collector contrary to the guidelines issued in the G.O.

above mentioned made an appointment against the vacancy lying in the petitioner school. The Noon Meal Organiser post in the petitioner school

fell vacant on 01.01.2008 due to retirement of one Thiru. Purushothaman on 31.12.2007. The petitioner management sent a list of five candidates

to the selection committee in compliance with the G.O. along with its covering letter dated 02.03.2009. However, the District Collector has

overlooked the list forwarded by the school management and appointed one Tmt. Sivagami and issued posting order on 11.02.2010. The same

compelled the petitioner management to issue legal notice to the respondents on 25.02.2010 and following the same, the appointment of Sivagami

was cancelled by the first respondent/District Collector in his proceedings dated 20.02.2010. Even thereafter, the first respondent did not, till date

deem it fit to make the selection from the list sponsored by the petitioner school. Hence, the petitioner has come forward with this writ petition

seeking appropriate relief for filling up the vacancy from any one of the suitable candidates from the list of five persons sponsored by the school

management on 02.03.2009.

5. Heard the rival submissions made on both sides.

6. The claim of the petitioner that the vacancy shall be filled up only by appointing any one suitable candidate in the list sponsored by the school

management is based on the G.O.Ms. No. 294 dated 21.10.1993, the validity of the G.O. is also upheld by our High Court in the Judgments, the

copies of which are enclosed in the typed set of papers. The petitioner has also in the course of hearing, produced the copy of other order of our

High Court dated 05.10.2007 made in W.A. No. 125 of 2005 and W.P. Nos. 2401

and 2478 of 2007, wherein identical question arose for the consideration of the Hon''ble Division Bench of our High Court. The Hon''ble Division Bench is pleased to, following the G.O., uphold the claim of the appellants/management thereby setting aside identical order of the Commissioner, Panchayat Union. The Hon''ble Division Bench has, while doing so, clearly observed that the requirement of getting a panel of five names from the correspondent of the school concerned as envisaged in the earlier G.O. was not dispensed within the subsequent G.O.

7. That being so, the relief sought for in this writ petition is to be necessarily granted. However, the learned Government Advocate would appeal to this Court that the management may be directed to submit fresh panel of five persons to the selection committee to consider the selection as fresh without reference to the old list. This Court finds some bonafide in such contention raised on the side of the respondents.

8. In the result, the petitioner/school is directed to forward fresh panel of five names to the selection committee, consisting of the respondents 2 and 3 and the correspondent-headmaster of the concerned school, through the first respondent/District Collector within two weeks from the date of receipt of copy of this order and the selection committee is directed to fill up the vacancy with any suitable person from the list so sponsored by the school within two weeks thereafter. The connected miscellaneous petition is closed. No costs.