

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 17TH DAY OF AUGUST, 2009

BEFORE

THE HON'BLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION No.17144 OF 2007 (S-RES)

BETWEEN:

SMT. K.V.YASHODAMMA
W/O SRI. P.N.BABU,
AGED ABOUT 28 YEARS,
R/O PARAMA VILLAGE,
SUNDAHALLI POST,
SHRAVANBELGOLA HOBLI,
CHANNARAYAPATTANA TALUK,
HASSAN DISTRICT.

... PETITIONER

(BY SRI.V.B.SIDDARAMAIAH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF PUBLIC INSTRUCTIONS,
M.S.BUILDING,
SACHIVALAYA - II,
DR. AMBEDKAR VEEDHI,
BANGALORE - 560 001.
2. THE DIVISIONAL SECRETARY &
EX. OFFICIO JOINT DIRECTOR,
DEPARTMENT OF PUBLIC INSTRUCTIONS,
MYSORE DIVISION,
MYSORE.
3. THE ASSISTANT DIRECTOR &
SELECTING AUTHORITY,

8

DEPARTMENT OF PUBLIC INSTRUCTIONS,
MYSORE DIVISION,
MYSORE.

4. THE TAHASILDAR
CHANNARAYAPATTAN TALUK,
CHANNARAYAPATTAN,
HASSAN DISTRICT.

5. THE DEPUTY COMMISSIONER
HASSAN DISTRICT,
HASSAN.

... RESPONDENTS

(BY SRI T.P. SRINIVASA, ADDITIONAL GOVERNMENT
ADVOCATE)

This Writ Petition is filed under Articles 226 and 227 of the Constitution of India, praying to issue a writ of certiorari quashing the impugned order/communication dated 4.10.2007 issued by the respondent No.2 - the Divisional Secretary and Ex-Officio Joint Director, Department of Public Instructions, Mysore Division, Mysore vide Annexure - 'F', etc.

This Petition coming on for hearing this day, the Court made the following:-

ORDER

This petition coming on for final hearing, heard the counsel for the petitioner.

2. The petitioner is a permanent resident of Parama Village, Chennarayapattana Taluk, Hassan District. The

3

petitioner is said to be the daughter-in-law of one Shri. Nanjundegowda of Parama Village. The land in survey No.136 measuring 38 guntas was acquired by the Government for construction of Hassan-Bangalore Railway Project in the year 2005-06. The petitioner has studied in Kannada medium from first to seventh standard at Government Higher Primary School, Kumbenhalli Village, Hassan District. She had studied from eighth to tenth standards in Kannada medium at Chetan High School, Mathigatta, Hassan District. The petitioner, therefore, had studied in Kannada medium from the first to the tenth standard. She married Shri.P.N.Babu S/o Shri. Nanjundegowda. The petitioner would fall under the Backward Class Category - IIIA. A true copy of the certificate issued by the Tahasildar, Channarayapattana in this regard is produced.

3. The land in survey No.136 having been acquired by the Government by an order dated 21.4.2006, as per the order by the Special Land Acquisition Officer, Hemavathi

3

Jalashaya Yojana, Hassan, a certificate was issued in this regard and under a scheme namely Yojana Nirashritaru Scheme, the petitioner had applied for the post of High School Teacher invited by the Department of Public Instructions. The respondent No.1 had published a provisional selection list, selecting the petitioner under the General Merit - Yojana Nirashritaru quota. Subsequent to such publication of the provisional selection list and on production of original documents, the respondents further having verified the antecedents of the petitioner, a confirmation certificate was issued to her and she was posted to Yalandur Government High School, Chamarajanagar District as Assistant Teacher. When she was about to report for duty, respondent No.2 had communicated, by an order dated 28.8.2007, to state that since the petitioner was the daughter-in-law of Shri. Nanjundegowda, she was not entitled for reservation under the Yojana Nirashritaru Scheme and was called upon to show cause as to why, the order in her favour ought not to be cancelled. The petitioner has replied as on 11.9.2007,

3

that it was at the instance of the family of Shri. Nanjundegowda, that the petitioner had submitted her application and she being eligible and qualified to represent the family, there is no reason to deny her appointment. However, the respondent No.2, by communication dated 4.10.2007, stated that the petitioner is the daughter-in-law of Shri.Nanjundegowda and she would not be entitled for the appointment under the Scheme, as the Scheme does not take a daughter-in-law into account. The communication dated 4.10.2007 is questioned in this writ petition.

4. The petitioner seeks to claim on behalf of the family which has been dispossessed of the land. She is an eligible and a qualified member of the family. The denial of the benefit of the Scheme only on the ground that she happened to be the daughter-in-law of Shri. Nanjundegowda, is unfair and unjust. She is more permanent fixture, than a daughter in the family. She would continue to reside with the son of Shri. Nanjundegowda, who is deprived of the land. Hence,

3

notwithstanding that the authority may be justified in placing a strict interpretation of the expressions or the definitions used in the definition of family under the Scheme under which employment was sought, it would stand to reason and justice that the petitioner be provided employment when there is unanimity in the family, as to the entitlement of such appointment. Hence, the impugned order of communication is hereby quashed.

The respondents are directed to confirm the appointment of the petitioner as Assistant Teacher in Yalandur Government High School, Chamarajanagar District, forthwith.

Sd/-
JUDGE

AHB