

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.08.2016

CORAM

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

W.P.No.23377 of 2016

Minor Y.Harshidha

Rep. by her mother/ next friend
Jayalakshmi

.... Petitioner

Vs.

1 The District Collector
Erode District,
Erode.

2 The Inspector of Matriculation School,
12/2, Mettur Road,
Erode 638 001,
Erode District.

3 S.Yuvaraj

4 The Principal
Shree Vidyalaya Matriculation School,
Gobichettipalayam,
Erode District.

.... Respondents

Prayer:

Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus directing the respondents 1 and 2 to issue suitable direction to the 4th respondent to hand over the original Transfer Certificate and other relevant school records of the petitioner/minor Harshida, 16 years to her by considering the petitioner's representation dated 27.06.2016.

For Petitioner : Mr.N.Manokaran

For Respondents : Mr.P.Sanjai Gandhi for R1
Additional Government Pleader
Mrs.P.Rajalakshmi for R2
Government Advocate

O R D E R

By consent, the writ petition is taken up for final disposal.

2.The deponent of the affidavit is the mother of the minor petitioner namely, Y.Harshidha, aged 16 years and would state that her marriage with the third respondent was solemnized on 01.07.1998 and at the time of her marriage, her parents presented her with jewels, cash and household articles etc as demanded by him and out of the wedlock, she was blessed with two daughters namely, Harshidha, aged about 16 years and Sudharshini, aged about 13 years and both of them are under her care and custody.

3.It is further stated by the petitioner's mother that the third respondent on account of his addiction to alcohol, abused her both physically and mentally and she was also driven out of her matrimonial home in the year, 2013 and subsequently, the third respondent had contracted marriage for the second time.

4.The mother of the petitioner in this regard, has also lodged complaint on the file of the jurisdictional police station which resulted in the registration of the case in Crime No.2 of 2016 for the offence punishable under Sections 498 A and 506 (i) of IPC and she also filed D.V.A.No.17 of 2016 before the learned Judicial Magistrate, Bhavani and also filed private complaint against the third respondent for the commission of the offence under Sections 494, 120 B and 506(ii) of IPC. The mother of the petitioner, apart from lodging the above said criminal proceedings, has also filed a suit in O.S.No.131 of 2016 on the file of the learned District Munsif, Tiruchengode against the third respondent, for permanent injunction restraining the defendants therein from alienating or creating any encumbrance on the suit properties and the suit is pending.

5.The grievance expressed by the petitioner is that she is studying in Shree Vidyalaya Matriculation School, Gobichettipalayam, Erode District and in order to have better care and custody, her mother requested the fourth respondent, in which the petitioner is studying to hand over the Transfer Certificate and it was refused to be handed over and in this regard, representations were given by the petitioner as well as her mother to the respondents and since no response is forthcoming, the petitioner has come forward to file this writ petition.

6.The learned counsel appearing for the petitioner has drawn the attention of this Court to the letter of the second respondent and would submit that based on the representation

dated 27.06.2016, submitted by the petitioner, the said Official has informed the petitioner that necessary instructions have been given to the fourth respondent School to hand over the Transfer Certificate subject to the relevant rules and regulations and despite that, the fourth respondent is refusing to hand over the Transfer Certificate and as a consequence, she is not able to get admitted in other School of her choice and therefore, prays for appropriate orders.

7.This Court heard the submissions of Mr.P.Sanjai Gandhi, learned Additional Government Pleader who accepts notice on behalf of the first respondent and Mrs.P.Rajalakshmi, learned Government Advocate who accepts notice on behalf of the second respondent and she would submit that necessary instructions have already been given to the fourth respondent to issue Transfer Certificate subject to the relevant rules and regulations. Though the names of the respondents 3 and 4 appear in the cause list, there is no representation on their behalf.

8.This Court has considered the rival submissions and also perused the materials placed before it.

9.It is the categorical stand of the mother of the petitioner who has sworn to the affidavit filed in support of this petition that she and the third respondent are living separately and that the care and custody of the petitioner as well as her sister is with her and she wants to admit the petitioner in some other school and for that purpose, she require the Transfer Certificate from the fourth respondent school. The said claim of the petitioner is not opposed by the respondents 3 and 4 for the reason that they did not choose to enter appearance in this writ petition.

10.This Court in the light of the above facts and circumstances is of the view that the petitioner is entitled to get Transfer Certificate as well as Character and Conduct Certificates also. Hence, this Court directs the fourth respondent School to hand over the Transfer Certificate as well as Character and Conduct Certificate of the petitioner, to the mother of the petitioner within a period of one week from the date of receipt of a copy of this order.

11.The writ petition is disposed of accordingly. No costs.

Sd/-
Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

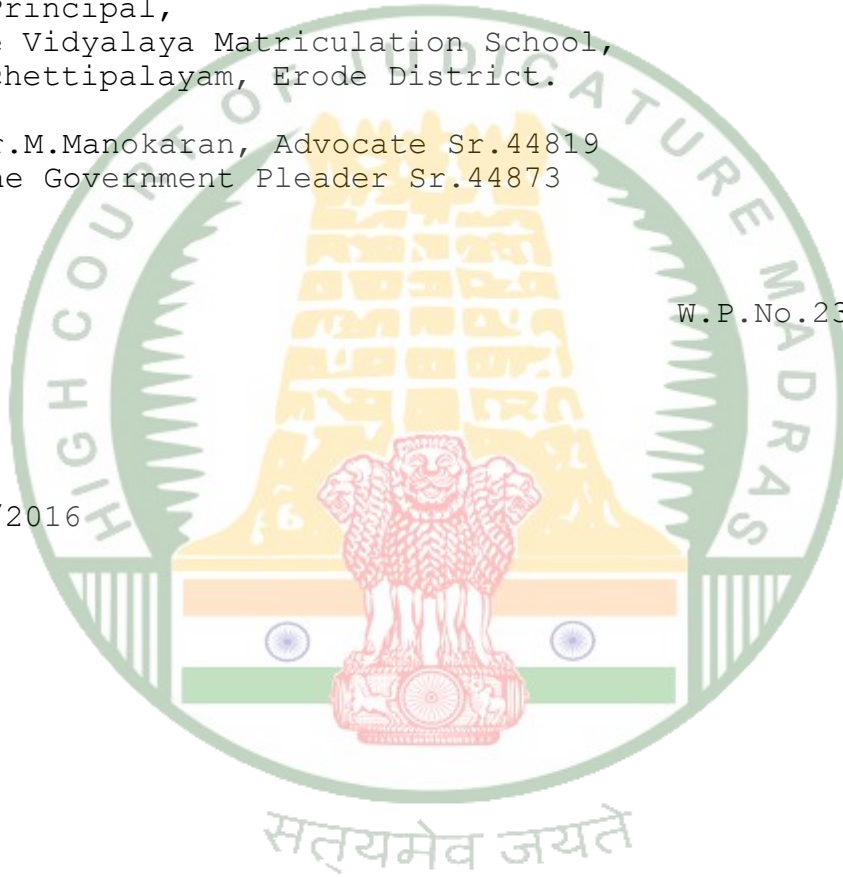
To

- 1 The District Collector,
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- 2 The Inspector of Matriculation School,
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- 3 The Principal,
Shree Vidyalaya Matriculation School,
Gopichettipalayam, Erode District.

+1cc to Mr.M.Manokaran, Advocate Sr.44819
+1cc to the Government Pleader Sr.44873

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