

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :13.07.2017

CORAM

THE HON'BLE MR.JUSTICE S.M.SUBRAMANIAM

W.P. No.7182 of 2017

P.Sukumar

[PETITIONER]

Vs

- 1 The Secretary
Educational Department
Fort St. George
Chennai- 600 009.
- 2 The Director School Education
and Public Library Department
DPI, Chennai - 600 006.
- 3 The Director
Public Library Department
737/1 Directorate of Public Library
Annasalai, Chennai- 600 002.

[RESPONDENTS]

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue of Writ of Mandamus, to direct the respondents to consider petitioner's application for transfer dated 01.03.2017 within the time frame as fixed by this Court.

For Petitioner : Ms.Annmma

For Respondents : Mr.K.Dhananjayan
Spl.Govt.Pleader

ORDER

The relief sought for in this Writ Petition is for a direction to the respondents to consider the Application submitted by the writ petitioner on 1st March, 2017.

2. Passing an order of transfer is an administrative function and prerogative of the competent authorities. The transfer is an incidental to service. When the power of transfer is vested with the authorities competent to issue the same, this Court cannot act as a 'special purpose vehicle' to carry any recommendation on behalf of the Public servant concerned to post or place of his/her choice. Any order which is recommendatory in nature is to be avoided and this Court cannot act as an instrument to issue any recommendationz in the form of direction to the Executives either to consider or to pass certain kind of orders. Only if any legal right is established in the Petition challenging the order of transfer, the Courts will be in a position to consider and intervene the said order of transfer. The semblance of right is the minimum requirement for entertaining the writ under Article 226 of the Constitution of India. In the absence of any right, no Writ can be issued nor any such direction to consider, also can be issued. A mere direction of consideration cannot be

construed in a different manner by the authorities and the Rule of Law requires an establishment of right for interference, more specifically by Constitutional Courts.

3. Such being the legal dictum, this Court is not inclined to issue any direction to the respondents to consider the case of the writ petitioner to post him in the place of his choice. Place or Post can never be claimed as a matter of right by any public servant. Public servant has got paramount duty towards the public and it is for the Government to decide who should be placed and where.

4. Thus, the prayer as such sought for cannot be granted and the Writ Petition stands dismissed. No costs.

13.07.2017

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To

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S.M.SUBRAMANIAM,J.

rpa



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