

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2017

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.13044 of 2016 and
W.M.P.Nos.11387 & 11388 of 2016

K.Rajendran
Nutritious Meal Organizer,
Government Higher Secondary School,
Thali, Denkanikottai Taluk,
Krishnagiri District. ... Petitioner

Vs.

1. The District Collector,
Krishnagiri District,
Krishnagiri.
2. The Commissioner,
Thali Panchayat Union, Thali.
Denkanikottai Taluk,
Krishnagiri District.
3. C.Narayanan,
Nutritious Meal Organizer,
Panchayat Union Elementary School (Urdu),
Thali, Denkanikottai Taluk,
Krishnagiri District. ... Respondents

Prayer: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus to call for the records of the first respondent relating to orders in his Pro.Na.Ka.No.29652/2015/X.1 dated 16.11.2015 and Pro.Na.Ka.No.29652/2015X.1 dated 12.02.2016, quash the same and issue consequential directions to the first respondent to retain the petitioner in the centre in Government Boys Higher Secondary School, Thali by re-transferring him.

For Petitioner : Mr.D.Baskar & R.Dhanasekar
For Respondent : Mr.M.Perumal, for R1
Government Advocate
For Respondent : Mr.E.R.A.Premnath, for R2

O R D E R

The orders dated 16.11.2015 and 12.02.2016, passed by the first respondent are under challenge in this writ petition.

2.The writ petitioner is working as Nutritious Meal Organizer. On account of certain allegations, the writ petitioner was placed under suspension. The first respondent passed an order dated 16.11.2015, revoking the order of suspension.

3.On a perusal of the order of transfer dated 16.11.2015, the writ petitioner was transferred from Government Boys Higher Secondary School, Thali to Panchayat Union Primary School at Thali.

4.At the outset, the writ petitioner was transferred from one school to another school in the very same station at Thali. Instead of joining in the transferred place, the writ petitioner has chosen to move this writ petition. It is seen that the writ petitioner had already filed W.P.No.39048 of 2015, before this Court challenging the order of transfer dated 16.11.2015 and this Court passed an order dated 11.12.2015, directing the first respondent viz., The District Collector, Krishnagiri, to consider the representation submitted by the writ petitioner dated 23.11.2015 and pass appropriate orders on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of that order. Pursuant to the direction issued by this Court, the first respondent passed an order in proceedings dated 12.12.2016, holding that the writ petitioner was transferred within three kilo meters in the same station at Thali and the transfer order was issued on administrative grounds and therefore, the order of transfer earlier passed in proceedings dated 16.11.2015, deserves no merit consideration. Challenging those orders the writ petitioner filed the present writ petition.

5.Transfer is an incidental to service, more so, a condition of service. The writ petitioner was transferred from one school to another school in the same station at Thali, on revocation of the order of suspension. The revocation of order of suspension itself is

a relief granted to the writ petitioner and not satisfying with that, he has challenged the order of transfer issued by the first respondent, transferring him from one school to another school in the same station at Thali. Such an attitude of the writ petitioner is deprecated and the writ petitioner being a public servant has to work in a place where he is posted. Post and place can never be claimed as a matter of right. The writ petition filed challenging the administrative orders of transfer cannot be entertained in a routine manner. The writ petition against the order of transfer can be entertained only on limited grounds and on exceptional circumstances, if the order of transfer was issued by an authority without jurisdiction or an incompetent authority issued the order or if the transfer order is in violation of the statutory rules in force or an allegation of mala fides are raised. In case of raising the allegations of mala fide against the authority, it is necessary that such an authority against whom allegations are raised is to be impleaded as a party in the writ proceedings in his personal capacity. In the absence of any one of such legal grounds, no order of transfer can be subjected to judicial review under Article 226 of the Constitution of India.

6. Even on merits the case of the writ petitioner deserves no consideration, since he was transferred from one school to another school in the same station at Thali. In this view of the matter, no further consideration is required to be shown on the grounds raised in this writ petition.

7. The writ petition stands dismissed accordingly. However, no order as to cost. Consequently, connected miscellaneous petitions are closed.

/sd/-

Assisrtrant Registrar

/True Copy/

Sub Assistant Registrar

msm

To

1. The District Collector,
Krishnagiri District,
Krishnagiri.

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2. The Commissioner,
Thali Panchayat Union, Thali.
Denkanikottai Taluk,
Krishnagiri District.

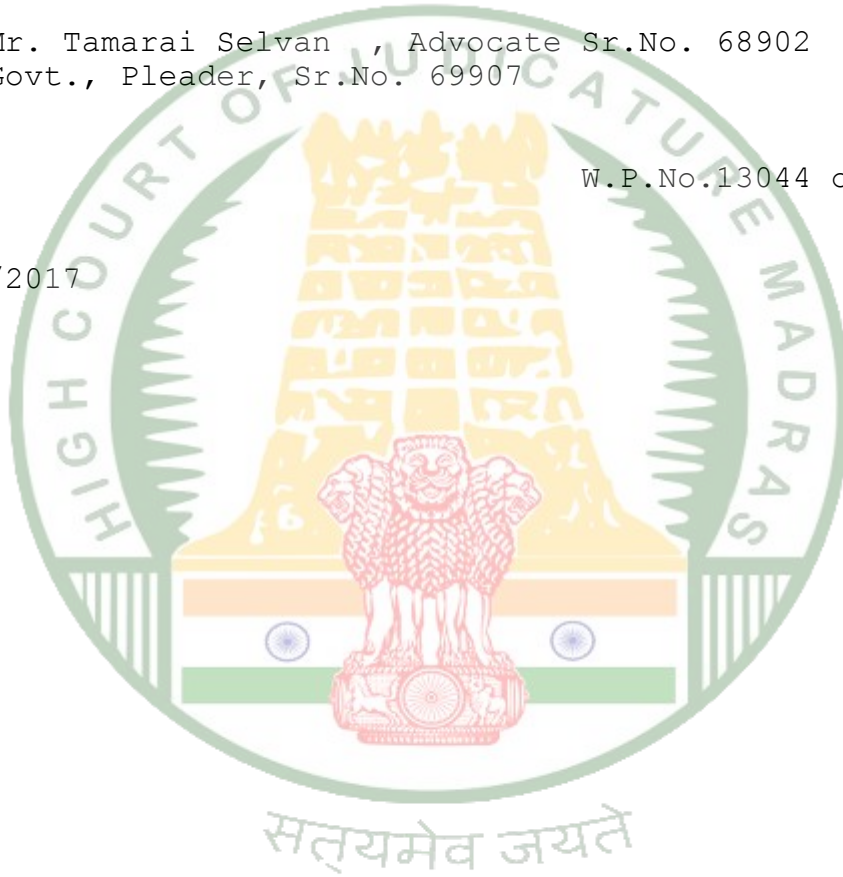
3. C.Narayanan,
Nutritious Meal Organizer,
C.Narayanan, Panchayat Union Elementary School (Urdu),
Thali, Denkanikottai Taluk,
Krishnagiri District.

+1 CC to Mr. Tamarai Selvan , Advocate Sr.No. 68902

+1 CC to Govt., Pleader, Sr.No. 69907

W.P.No.13044 of 2016

MD: 10/11/2017



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