

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :21.08.2017

CORAM

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

W.P.No.14793 of 2015
and
M.P.Nos. 1 to 3 of 2015

N.Ezilliraiyan

..Petitioner

Vs

1.The Director/Commissioner
Department of Agriculture
Marketing and Agri Business
Guindy, Chennai 600 032.

2.The Secretary
Kancheepuram Market Committee
Kancheepuram 631 501.

3.K.Saridha

... Respondents

PRAYER : Petition filed Under Article 226 of the Constitution of India to issue a Writ of Certiorari calling for the records of the first respondent in impugned order passed in Vi.Ku.Pa.1/28499/13 dated 08.05.2015, and quash the same.

For Petitioner : Mr.B.Singaravelu

For Respondents: Mr.R.S.Selvam
Government Advocate for R1

Mr.D.Suriya Narayanan for R2
Mr.P.Ganesan for
M/s C.S.Associates for R3

O R D E R

The order of transfer issued by the first respondent in proceedings dated 8th May, 2015 is under challenge in this writ petition.

2. The writ petitioner is working as Supervisor in Regulated Market at Red hills. The learned Counsel appearing for the writ petitioner contended that the third respondent Mrs.K.Saritha, who is working as Superintendent in Arakkonam, is transferred to Kancheepuram contrary to the Government Order issued in G.O.Ms.No.40, Agriculture Department dated 09.02.2000. It is contended that as per the said G.O., the third respondent cannot be posted in Kancheepuram, since Kancheepuram is the native place of the third respondent.

3. Transfer is incidental to service more so, a condition of service. Administrative transfers are the prerogative of the employer- State and can never be claimed as a matter of legal right. Administrative transfers are issued in order to conduct the administration in a smooth manner and such transfers cannot be construed as a penalty. The instructions/guidelines issued by the Government in this regard cannot have any statutory force and such instructions are issued to follow an uniform procedure by the subordinate authorities and thus, the same will not confer any right on the writ petitioner to file this writ petition on the basis of such instructions. An order of transfer may be challenged only on the limited ground of jurisdiction, competency and on the ground of malafides. Even in case of raising an allegation of malafides, the authorities against whom such an allegation is made is to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any of these grounds, no writ can be entertained against the order of administrative transfer. The Constitutional Courts cannot interfere with the day-to-day administration of the State and in the event of interfering with the administrative transfers, it will create a chaos in the administration.

4. In the case on hand, the writ petitioner has challenged the transfer order issued in favour of the third respondent in proceedings dated 8th May, 2015. The writ petitioner cannot have any locus standi to challenge the order of transfer issued in favour of the third respondent. Even if there are some violations or some grievance, it is left open to the writ petitioner to approach the competent authorities in this regard.

Even for non-consideration of such grievance by the original authority, it is for the petitioner to approach the higher authorities in this regard. However, this Court cannot entertain such writ petition challenging the order of transfer issued in favour of the third respondent, since it is not linked with the posting and transfer of the writ petitioner.

5. In this view of the matter, no further consideration is required to be undertaken on the grounds raised in this writ petition. Accordingly, the writ petition stands dismissed. However, there is no order as to costs. Consequently, the connected miscellaneous petitions are also dismissed.

s/d-
Assistant Registrar(CS VI)

True Copy

Sub-Assistant Registrar

dna/ss

To

1.The Director/Commissioner
Department of Agriculture
Marketing and Agri Business
Guindy, Chennai 600 032.

2.The Secretary
Kancheepuram Market Committee
Kancheepuram 631 501.

+1 CC to Mr.D. Suriyanarayanan, Advocate sr 1354
+1 CC to Mr.C.S. associates, sr 60788
+1 Cc to Govt. Pleader sr 60378.

W.P. No.14793 of 2015

SKS (CO)
sp(18/09/2017)

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