IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :18.08.2017

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

W.P.No.22048 of 2017 and
W.M.P.No.23398 and 23099 of 2017

V.Kathiravan .. Petitioner

vs

The Additional Chief Secretary/Commissioner of Commercial Taxes,
Ezhilagam,Chepauk,Chennai -5 .. Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari calling for the records of the order of the respondent in Proc.No.CP2/2454/2017 dated 28.07.2017 and quash the same pass such further orders.

For Petitioner : Mr.Adithya Reddy

For Respondents : Mr.S.Kanmani Annamalai
Additional Government Pleader (Tax)

O R D E R

Challenging the order dated 28.07.2017, the present writ petition is moved by the writ petitioner, who is holding the post of Assistant Commissioner of Commercial Taxes.

2. The Learned counsel appearing for writ petitioner has strenuously contended that the writ petitioner beyond his official capacity is holding the post of the President of Employees' Cooperative Society and therefore, he has got certain obligation towards the members of the Cooperative Society and thus, the transfer will affect his obligation towards the members to carry out the administration of the Cooperative Society.

3. The very submission made in this regard deserves no consideration at all. The public servants are to serve for the public at large and all other extra activities of the Government

servant is of personal character and such obligation either towards the Cooperative Society or any other voluntary association cannot have any implication in respect of the administrative transfers issued by the Department, in which the writ petitioner is holding the responsible post of Assistant Commissioner of Commercial Taxes. The writ petitioner being the public servant, is governed by the service conditions of the State and he is the full time employee of the State. The State being the employer and the writ petitioner enjoying the special status in the Society, by virtue of his position as the Assistant Commissioner of Commercial Taxes, his responsibilities towards public is large and rest are all his private affairs and this Court cannot consider his private inconvenience and other position undertaken by him in his personal capacities.

4. Service to the public by a public servant is Constitutional mandate and the Government servant is an officer, who has to work 24x7, if a call is given. Public servants are enjoying the special status in the Society. By virtue of their status, they have to be neutral, impartial and dedicate themselves to the public service. This being the requirement of the Government employee, this Court is of the opinion that the writ petitioner cannot raise the ground that he is the President of the Employees' Cooperative Society and he has got certain obligation towards the members of the said Society. Transfer is an incidental to service, more so, condition of service. No writ can be entertained against the order of transfer in a routine manner and the order of transfer can be challenged only on exceptional grounds, if an order of transfer has issued without any jurisdiction or competency or allegation of mala fide are raised. If the Transfer order is in violation of the statutory rules, then also writ can be entertained. In the absence of any such grounds, the writ cannot be entertained, considering the validity of administrative transfer.

5. All administrative transfers are issued by the competent authority in order to run the administration in an effective manner. The Court cannot interfere with the day to day administration of the Department. Frequent interference in administrative transfers will certainly cause chaos on the administration and the constitutional Courts has to exercise the power of judicial review cautiously, more so, in the case of administrative transfers. Such being the legal principles stated in this regard, the present writ petition deserves no consideration.

6. This Court is not inclined to consider the case of the writ petitioner on merits. The writ petitioner holding the responsible post of Assistant Commissioner of Commercial Taxes has to work in the interest of the public as well as the

interest of the Department. The writ petitioner has been transferred from Chennai to Gummidipundi. Thus, the attitude of the writ petitioner in filing this writ petition for such a short distance transfer is deprecated.

7. In this view of the matter, no further consideration in this writ petition is required to be undertaken. Accordingly, the writ petition stands dismissed. However no order as to costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

The Additional Chief Secretary/Commissioner of Commercial Taxes,
Ezhilagam,Chepauk,Chennai -5

+1cc to Mr.Adithya Reddy, Advocate, S.R.No.59200

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and
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GN(06/09/2017)