

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.11.2017

CORAM

THE HON'BLE MR.JUSTICE T.RAJA

W.P. No.28671 of 2017 and
WMP Nos.30848 and 30849 of 2017

K.Revathi

Petitioner

Vs.

1. The District Elementary Educational Officer,
Krishnagiri District
2. The Head Master,
Panchayat Union Middle School,
Lakkampatti Colony,
Uthangarai Union,
Krishnagiri

Respondents

Writ Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorari calling for the records relating to the order passed by the 1st respondent in Na.Ka.No.1439/A3/2017 dated 30.10.2017 and quash the same in as much as transferring the petitioner.

For Petitioner: Mr.S.Conscious Ilango

For Respondents: Mr. V.Jayaprakash Narayanan
Special Government Pleader

O R D E R

The petitioner has come to this Court questioning the correctness of the impugned order dated 30.10.2017 passed by the 1st respondent, in and by which, several teachers were transferred, the petitioner is also one among the transferee.

2. Learned counsel appearing for the petitioner submitted that one R.Udayasivasankarai, who is the native of Lakkampatti Village, taking advantage of her posting in the very same village used to bring villagers to the 2nd respondent / School for threatening the headmistress and other teachers in the name of community. In turn, Headmistress made a complaint on 28.02.2017 to the Assistant Elementary Education Officer,

Krishnagiri about the activities of the said teacher, viz., R.Udayasivasankari. Again, another complaint dated 04.03.2017 was sent by the Headmistress to the District Elementary Educational Officer, Krishnagiri, 1st respondent, herein. However, without taking any action against the said Udayasivasankari, the impugned order has been passed transferring the petitioner from Panchayat Union Middle School, Lakkampatti Colony, Krishnagiri to another place, namely, Panchayat Union Middle School, Kattanur.

3. Explaining further, it is stated that on 21.4.2017 when the petitioner and other teachers were teaching the students in their respective classes, Mrs.R.Udayasivasankari quarrelled with the Headmistress and started physically assaulting the Headmistress Mrs.R.Nirmala. Hearing the voice of the Headmistress, the petitioner and other teachers rushed to the spot and found that the said Mrs.Udayasivasankari was assaulting the Headmistress Mrs.R.Nirmala. Seeing such a grave misconduct, one teacher Mr.Tiruvenskadam tried to calm down both of them, whereas the said Mrs.Udayasivasankari started assaulting him. When an incident like this occurred inside the school between the teachers, all other teachers including the petitioner came to the spot, after seeing the crowd, the said Mrs.Udayasivasankari left the place. Thereafter, the Headmistress Mrs.R.Nirmala made a police complaint against the said Mrs.Udayasivasankari and the said complaint was also registered in FIR No.164 of 2017 on the file of Uthangarai Police Station. After knowing this, the said Mrs.Udayasivasankari also made a counter complaint raising false allegations against all the teachers for an offence under the provisions of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act and the same was also registered as FIR No.165 of 2017. When the petitioner also belongs to Scheduled Caste, the false complaint by Mrs.Udayasivasankari against the petitioner indicates that it is not only frivolous, but also a motivated one. In view of the above serious incident, instead of taking action against Mrs.Udayasivasankari, the first respondent, by a proceeding dated 21.4.2017, suspended all the teachers from service including the said Mrs.Udayasivasankari, the petitioner and the Headmistress. Since the petitioner was not paid with the subsistence allowance, a representation dated 20.7.2017 was made to the Assistant Elementary Educational Officer, Uthangarai requesting for payment of subsistence allowance. Subsequently, all the teachers have given their request to recall the transfer order and also for mutual transfer. Subsequently, the petitioner and other teachers have submitted the representation dated 12.09.2017 to recall the order of suspension and to post in some other school. While submitting such representation, the petitioner has also produced the willingness and consent letter given by one Anandan working

at Kottarapatti Panchayat Union Middle school to be transferred to Lakkampatti, Panchayat Union Middle School. When mutual request for transfer was given, without considering the same, the petitioner has been transferred to far away place, as a result, she has to leave the present school and travel to the school, which is situated far away.

4. Learned counsel appearing for the petitioner assailing the impugned order of transfer as a punitive measure would submit that enquiry initiated under Rule 17(b) is a clear proof of punitive action, which cannot be imposed against the petitioner. Adding further, he would submit that when the petitioner has already made a request on 20.07.2017 for transfer, the respondents could have accommodated the petitioner, accepting her request for transfer within 5 kms., but without doing so, the petitioner has been transferred to a far away place.

5. The contention made by the learned counsel for the petitioner that the impugned order of transfer to Panchayat Union Middle School, Kattanur, i.e., in the same block over looking her mutual transfer is wholly without any merit. The petitioner is a B.T.Assistant (English) in the Panchayat Union Middle School, Lakkampatti Colony, Uthangarai Union, Krishnagiri District. In view of the serious misunderstanding between the Headmistress Mrs.R.Nirmala and another teacher Mrs.Udayasivasankari, a complaint has been made by the Headmistress against the said Mrs.Udayasivasankari alleging that the said Mrs.Udayasivasankari, native of Lakkampatti village, used to bring the villagers to the school to threaten the students and the other teachers in the name of the community, as she belongs to Scheduled Caste community. It appears that the Headmistress of the Panchayat Union school made a police complaint against the said Mrs.Udayasivasankari and the same has been registered in FIR No.164 of 2017 on the file of Uthangarai Police Station. As a counter blast, the said Mrs.Udayasivasankari also made another complaint against all the teachers working in the school for an offence under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act. Since the teachers started fighting inside the school forgetting their duties and obligations to instill good qualities among the students, the first respondent, taking stock of the situation, rightly passed an order of suspension in his proceedings Rc.No.143983/17 dated 21.7.2017 including the said Mrs.R.Udayasivasankari, Headmistress Mrs.R.Nirmala and the petitioner. Thereafter the petitioner and other teachers submitted a representation on 12.9.2017 to recall the order of suspension and to post them in other schools. Considering their request for recalling the suspension order, the present impugned order has been passed recalling the order of suspension. When

the teachers were all fighting inside the school forgetting their duties and obligations to instill good qualities in the minds of the students and make them as role models, placing them under suspension cannot be found fault with. Again the first respondent, taking note of the happenings inside the school, rightly transferred all the teachers. Since the order of transfer has been passed in lieu of suspension, I do not find any infirmity in the impugned order. Exceptions III(f) to the General Guidelines in Chapter 18, Transfer of Government Servants, Government of Tamilnadu in G.O.Ms.No.10 dated 07.01.1994, Personnel and Administrative Reforms (Personnel-S) Department states the following:

"III.(f) In cases where severe allegations are pending enquiry, when it is considered necessary in the public interest, and sufficient in lieu of suspension that the officer may be transferred. In that case, transfer shall be effected to a vacant post in another station or to the post where the juniormost person of the same category is working"

6. A perusal of the impugned order does not show that the order is erroneous. However, learned counsel appearing for the petitioner requested this Court to direct the respondents to consider the pending representation of the petitioner for two reasons. The petitioner has been transferred to a far-off place, with the result, she is not in a position to bestow good care on her 1 ½ year old child. Secondly, her husband is also working in a faraway place and that 2nd respondent had accepted the mutual transfer in respect of others leaving the petitioner alone. Considering the piquant situation which warranted the transfer, this Court is not inclined to issue any more direction to the respondents.

7. Admittedly, as highlighted above the petitioner was placed under suspension on 21.04.2017, now, in lieu of suspension, she was transferred. While transferring the petitioner, the impugned proceedings clearly says that pending enquiry under Rule 17(b), the present impugned order of transfer has been effected. This is squarely covered by the above stated Exception III(f) to the General Guidelines. Hence the impugned order of transfer passed by the 1st respondent dated 30.10.2017 is perfectly in order in the eye of law, which does not warrant any interference of this Court.

With the above said observation, this petition stands dismissed. Consequently, connected miscellaneous petitions are closed. No costs.

Sd/-
Asst.Registrar (CS VI)

/true copy/

Sub Asst. Registrar

To

1. The District Elementary Educational Officer,
Krishnagiri District

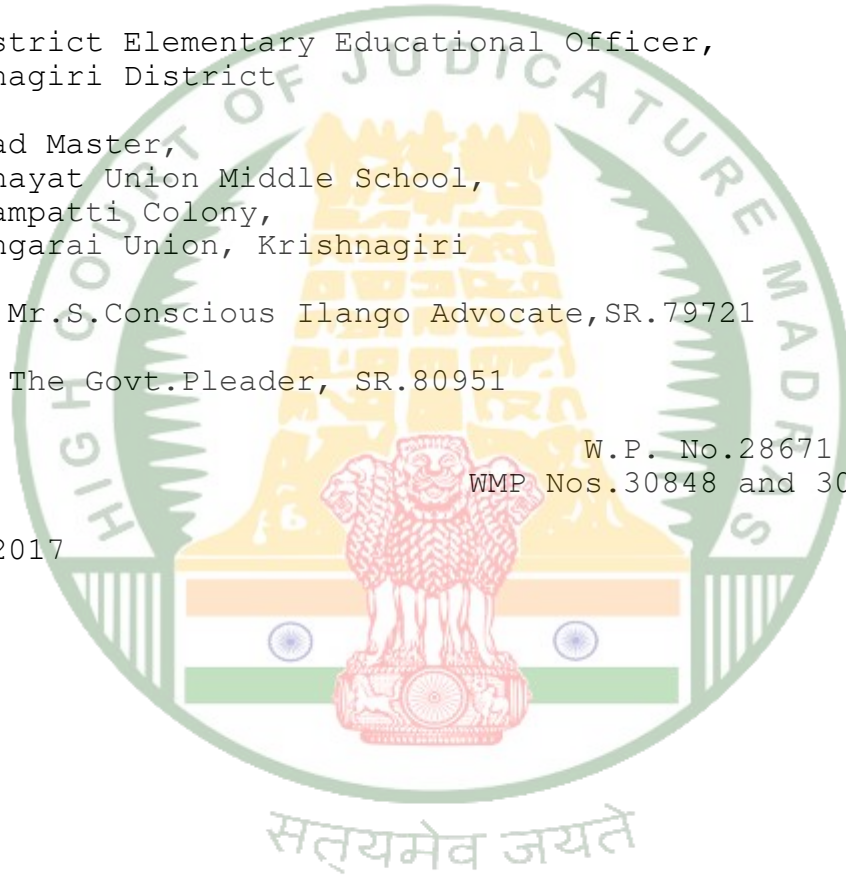
2. The Head Master,
Panchayat Union Middle School,
Lakkampatti Colony,
Uthangarai Union, Krishnagiri

+ 1 cc to Mr.S.Conscious Ilango Advocate,SR.79721

+ 1 cc to The Govt.Pleader, SR.80951

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NR 08/12/2017



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