

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED : 05.04.2017

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM**AND****THE HONOURABLE MR.JUSTICE P.VELMURUGAN****W.A.(MD)Nos.314 and 315 of 2017****and****C.M.P(MD)Nos.3164 and 3165 of 2017****W.A(MD)No.314 of 2017:**

Prema

... Appellant/

5th Respondent

Vs.

1.The Joint Director (Higher Secondary),
Office of the Joint Director of School Education Department,
DPI Compound,
Chennai - 6.

2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

3.The District Educational Officer,
Office of the District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

4.The Headmistress,
S.S.A.M.Government Higher Secondary School,
Thiruppullani,
Ramanathapuram District.

... Respondents 1 to 4/
Respondents 1 to 4

5.P.Mugendiran

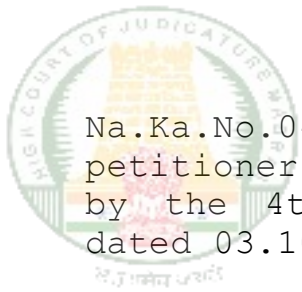
... 5th Respondent/

Writ Petitioner

PRAYER: Appeal filed under Clause 15 of the Letters Patent,
against the order passed in W.P(MD)No.19887 of 2016, dated
03.03.2017.

Prayer in WP(MD). 19887/ 2016 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court To issue a Writ of
Certiorari calling for the records relating to the impugned
transfer order passed by the 1st respondent in his proceedings in



Na.Ka.No.049797/W2/E1/2015 dated 08.09.2016 (served to the petitioner on 03.10.2016) and consequential relieving order passed by the 4th respondent in her proceedings in Na.Ka.No.161/2016 dated 03.10.2016 and quash the same as illegal.

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For Appellant : Mr.Isaac Mohanlal
Senior Counsel
for Mr.A.Thiruvadikumar

For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader
for R.1 to R.4

Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates for R.5

W.A(MD)No.315 of 2017:

Prema ... Appellant/
5th Respondent

Vs.

1.The Joint Director (Higher Secondary),
Office of the Joint Director of School Education Department,
DPI Compound,
Chennai - 6.

2.The Chief Educational Officer,
Office of the Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.

3.The Headmistress,
S.S.A.M.Government Higher Secondary School,
Thiruppullani,
Ramanathapuram District.

... Respondents 1 to 3/
Respondents 1 to 3

4.Jeyakannu
5.Duraimurugan
6.Sathiyamoorthy

... Respondents 4 to 6/
Respondents 5 to 7

7.E.Shanmuganathan

... 7th Respondent/
Writ Petitioner



Prayer in WP(MD). 21806/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in Na.Ka.No. 049797/W2/E1/2015 dated 08..09.2016 and the consequential relieving order passed by the 3rd respondent in her proceedings in Na.Ka.No. 150/2016 dated 16.09.2016 and quash the same as illegal and consequently direct the 1st respondent to post the petitioner in the 3rd respondent school.

For Appellant : Mr.Isaac Mohanlal
Senior Counsel
for Mr.A.Thiruvadikumar

For Respondents : Mr.VR.Shanmuganathan,
Special Government Pleader
for R.1 to R.3

Mr.V.Vijayshankar for R.7

COMMON JUDGMENT

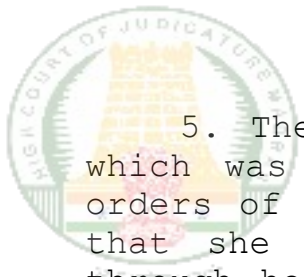
(Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**)

Both the writ appeals have been filed against the common order dated 03.03.2017 passed in W.P(MD)Nos.19887 and 21806 of 2016.

2. Heard Mr.Isaac Mohanlal, learned Senior Counsel appearing for Mr.A.Thiruvadikumar, learned Counsel for the appellants, Mr.VR.Shanmuganathan, learned Special Government Pleader appearing for the official respondents and Mr.M.Ajmal Khan, learned Senior Counsel appearing for M/s.Ajmal Associates and Mr.V.Vijay Shankar , learned Counsel for the Teachers in both the appeals.

3. With the consent of either side, both the writ appeals are taken up for disposal.

4. The writ petitions were filed by two Teachers challenging the orders of transfer issued to them. The Writ Court after considering the factual matrix interfered with the orders of transfer stating that they are vitiated by bias. The appellant who is the Headmistress of the school is before this Court not being aggrieved by the order setting aside the orders of transfer, but she is aggrieved by the strong observations and findings rendered by the Writ Court in paragraphs 21 to 23 of the impugned order.



5. The Writ Court came to the conclusion that the complaint which was made by the girl students which actually led to the orders of transfer was actuated by the appellant/Headmistress and that she has created restlessness among students and teachers through her unwarranted act and therefore, while reprimanding the appellant, also directed her to uproot Karuvelam trees to an extent of 2,400 sq. ft.

6. We have elaborately heard the learned Counsel for the parties and perused the materials placed on record.

7. We find that based on the complaint given by the girl students, the District Child Welfare Officer had conducted an enquiry and in fact, visited the home of one of the girl students and submitted a report dated 22.08.2016.

8. On a reading of the said report, it is *prima facie* established that the action of the Teachers was not appreciable. Based on the said report, the Child Welfare Committee addressed a letter dated 22.08.2016 to the Chief Educational Officer, Ramanathapuram, enclosing the copy of the report and the findings contained therein.

9. The learned Single Judge appears to have questioned the children who were made to appear before the Court and by taking note of their statements, came to the conclusion that the appellant had been the root cause for creating such a complaint and her action is unwarranted and she has to be dealt with in an appropriate manner. In our considered view, the *lis* before the Court was not on the conduct of the appellant, rather the orders of transfer were challenged on the ground that it is tainted with *mala fide* on the allegation that the complaint was made by one non-existent person.

10. Furthermore, the Writ Court came to the conclusion that the appellant's conduct is unwarranted by referring to the statements given by the girl students before the Court, when they were directed to appear before the Court and thus, we find that there are two versions and this aspect was not germane while deciding the correctness of the orders of transfer. In other words, this issue cropped up when the writ petitions were heard, that too, when the Writ Court had directed the girl students to appear before the Court and it has questioned the students and based on the said stand taken by the students, strong observations were made against the appellant in the order. Thus, we are of the view that if there are two versions, a full-fledged enquiry is required to be conducted to ascertain the truth and veracity as to which of the statements/versions is correct. However, the Writ Court, while reprimanding the appellant and imposing certain strictures on her, has not endeavoured to direct an enquiry to be conducted in that angle and appeared to be solely guided by the



version of the students when they were called before this Court.

11. Thus, we find that the appellant has been put to prejudice and reprimanded without adequate opportunity and observations and findings rendered against her in her personal capacity has been done in violation of principles of natural justice. The appellant has clearly stated that she has not questioned the order in the writ petitions, whereby the orders of transfer of the Teachers were quashed and she is only aggrieved by the observations made by the Court in last three paragraphs of the order.

12. It is brought to our attention that the appellant has been given a Letter of Appreciation by the District Collector, Ramanathapuram, on 21.05.2015, whereby the District Collector has appreciated the efforts taken by the appellant for 100% results in the school and the hard and sincere work done by the appellant and the staff of the school was appreciated and the appellant was congratulated for the efforts taken for the upliftment of the Government school and the students therein. There are Press reports that the appellant has conducted herself in an appropriate manner so as to make a Model Teacher. It is further submitted that the appellant has attained the age of superannuation on 31.10.2016 and she had been permitted to continue till the end of the academic year, but she has quit the services on 24.03.2017.

13. Thus, pitted with all these facts and we are of the clear view that the findings rendered by the Writ Court in paragraphs 21 to 23 and other observations impinged upon the appellant's character and conduct, are not warranted and accordingly, the findings rendered by the Writ Court in paragraphs 21 to 23 and any other observations made in the impugned order casting a stigma on the appellant are set aside and they are to be expunged in full.

14. In the result, both the writ appeals are allowed to the extent indicated above. No costs. Consequently, the connected civil miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

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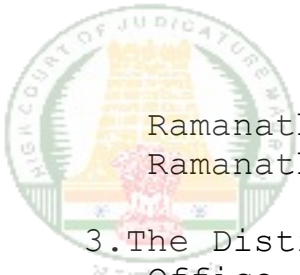
Sub Assistant Registrar

To

1.The Joint Director (Higher Secondary),
Office of the Joint Director of School Education Department,
DPI Compound,
Chennai - 6.

<https://hcservices.ecourts.gov.in/hcservices/>

2.The Chief Educational Officer,
Office of the Chief Educational Officer,



Ramanathapuram,
Ramanathapuram District.

3. The District Educational Officer,
Office of the District Educational Officer,
Ramanathapuram,
Ramanathapuram District.

+1cc to AJMAL ASSOCIATES Advocate in SR. No.50456
+2cc to M/s. A.THIRUVADIKUMAR Advocate in SR. No.50151,50152
+1cc to M/s. V.VIJAY SHANKAR Advocate in SR. No.50146
RSB
JS/SKN/RSK/SAR.3/10.04.2017/6P-8C

W.A. (MD) Nos.314 and 315 of 2017
and
C.M.P (MD) Nos.3164 and 3165 of 2017

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