



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2017

WEB COPY

CORAM:

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM
and
THE HONOURABLE MR.JUSTICE P.VELMURUGAN

W.A. (MD) No.740 of 2017
and
C.M.P. (MD) No.5520 of 2017

- 1.The Director of Elementary
School Education
DPI Campus, College Road
Chennai
 - 2.The District Elementary Educational Officer
O/o. District Elementary Educational Office
Trichy District
 - 3.The District Elementary Educational Officer
O/o. District Elementary Educational Office
Thuraiyur, Trichy District
- ... Appellants

-vs-

A.Selvakumar

... Respondent

Writ Appeal filed under Clause 15 of Letters Patent to set aside the order, dated 01.12.2016, made in W.P.(MD) No.21916 of 2016.

Prayer in WP(MD). 21916/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Mandamus directing the 1st respondent to transfer the petitioner from Kattuputhoor Panchayat Union Primary School in Thoottiyam Union to any one of the school having vacancy at Thuraiyoor Panchayat Union, Trichy District by considering his representation dated 22.09.2016 under the guidelines issued in G.O.Ms.No.92/S/09 dated 22.07.2009.

For Appellants : Mr.V.Muruganantham
Addl. Govt. Pleader

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

For Respondent : Mr.S.Arivalagan

**J U D G M E N T****[Judgment of the Court by T.S.SIVAGNANAM, J.]**

Heard Mr.V.Muruganantham, learned Additional Government Pleader, appearing for the appellants and Mr.S.Arivalagan, learned counsel appearing for the respondent.

2. This writ appeal by the Director of Elementary Education and two others is directed against the order, dated 01.12.2016, made in W.P.(MD) No.21916 of 2016. The respondent / writ petitioner, who had lost one of his lower limbs sought for a direction to the first appellant to transfer him to a particular school or in a school having vacancy at Thuraiyoor Panchayat Union by considering his representation and in the light of the guidelines framed by the Government in G.O.Ms.No.92/S/09, dated 22.07.2009.

3. The appellants herein resisted the relief sought for by the respondent contending that there is no vacancy available for the purpose of transfer. The Writ Court took note of the physical disability faced by the respondent and directed his representation to be considered within a time frame, if need be by creating a vacancy or by effecting mutual transfer.

4. The major part of the directions issued by the Writ Court cannot be faulted for the reason that the respondent is a physically challenged person. But, we have reservation only with regard to the direction issued for creating a new vacancy. If such a direction is issued, it will create a bad precedent. Therefore, while affirming the order passed in the writ petition, we were inclined to delete the direction issued to create a new vacancy as it may create a wrong precedent.

5. The learned counsel for the respondent / writ petitioner submitted that now the respondent / writ petitioner has been given a posting in a School in Thuraiyur Union.

6. In the light of the above fact that the respondent / writ petitioner has been given posting orders during the pendency of the proceedings, the writ appeal is disposed of with the observations made by us in Paragraph No.4 above. No costs. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True copy/

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

Sub Assistant Registrar



To

1.The Director of Elementary
School Education
DPI Campus, College Road,
Chennai.

2.The District Elementary Educational Officer,
O/o. District Elementary Educational Office,
Trichy District.

3.The District Elementary Educational Officer,
O/o. District Elementary Educational Office,
Thuraiyur, Trichy District.

+1 cc to Mr.Special Government Pleader , Advocate in SR.No. 62278

ia/krk

AE/MR/KKR/SAR3/06.07.2017/3P/5C

**W.A. (MD) No.740 of 2017
and
C.M.P. (MD) No.5520 of 2017
27.06.2017**