



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **06.06.2017**

CORAM:

THE HONOURABLE **MR.JUSTICE T.S.SIVAGNANAM**
AND
THE HONOURABLE **MR.JUSTICE P.VELMURUGAN**

W.A. (MD) No.572 of 2013 &
M.P. (MD) .No.1 of 2013

1.The Chief Educational Office,
Sivagangai,
Sivagangai District.

2.The Head Master,
Government Girls Higher Secondary School,
Sivagangai,
Sivagangai District.

...Appellants/Respondents

Vs.

Andronika Mary

...Respondent/Petitioner

PRAYER: Writ Appeal is filed under Clause 15 of Letters Patent Act against the order, dated 15.02.2012, made in W.P.(MD).No.7769 of 2011.

Prayer in WP(MD) . 7769/ 2011 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court Pleased to pass orders or writs, directions in particular Writ of Mandamus, directing the 1st respondent to pay the petitioner the salary every Month and thus render justice.

For Appellants	: Mr.V.R.Shanmuganathan Spl.Govt. Pleader
For Respondent	: Mr.N.Sundareshan

JUDGMENT

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J**]
Heard Mr.V.R.Shanmuganathan, learned Special Government Pleader appearing for the appellants and Mr.N.Sundareshan, learned counsel appearing for the respondent.



Petition (MD)No.89 of 2011, dated 15.02.2012. All pertaining to an order of transfer, which was issued to the respondent. A reading of the order passed in the writ petition, we find that it is a consent order and the Chief Educational Officer, Sivagangai appeared in-person and agreed to transfer the respondent to a nearby school.

3.The learned Special Government Pleader submitted that while it may be true that the consent order was in respect of transfer, with regard to the salary for the period during which, the writ petitioner did not work, there was no consent and the writ Court erred in directing the said period also to be regularised with full salary.

4.We have considered the facts and circumstances of the case and we find in paragraph 17 of the order of writ petition the Court has recorded reasons, which reads as follows:-

"17.The prayer in W.P(MD)No.7769 of 2011 is to pay salary to the petitioner. This Court granted an interim stay on 21st December, 2010. However, in spite of granting the interim stay, the first respondent has not passed any orders to post her at Government Girls Higher Secondary School at Sivagangai. The Writ Petition was also kept pending. Even though the Headmaster filed an application to vacate the interim order, the fact remains that the authorities have not taken any steps to post the vacate stay petition at an early date. Therefore, there petitioner was nowhere. The respondents did not permit the petitioner to join at Government Girls Higher Secondary School at Sivagangai. The petitioner is now denied the salary for the period in question. She was not responsible for this sorry state of affairs. The pendency of the writ petition before the Court should not cause prejudice to a litigant. Therefore, I am of the view that the matter requires immediate consideration by the first respondent. Accordingly, the Chief Educational Officer, Sivagangai is directed to regularise the services of the petitioner for the period in question by passing appropriate orders. The petitioner should be given salary for the relevant period, as expeditiously as possible."

From the above, it is seen that though the respondent obtained an order of Stay, she was not permitted to join duty at the Government Higher Secondary School at Thirumangshilai. Merely because the appellant had filed a petition to vacate the interim order and the same was pending cannot be a reason not to obey the order of interim stay. This procedure, which is resulted in filing of the contempt petition and ordering the personal appearance of

<https://hccourts.gov.in/> Chief Educational Officer.

5.The reasons assigned by writ Court is fully justified and



warranted in the facts and circumstances of the case and no grounds have been made out to interfere with the order of the writ Court. Accordingly, the Writ Appeal is dismissed. No costs.

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/True Copy/

Sd/-

Assistant Registrar(CS-III)

Sub Assistant Registrar

TO

1.The Chief Educational Office,
Sivagangai,
Sivagangai District.

2.The Head Master,
Government Girls Higher Secondary School,
Sivagangai,
Sivagangai District.

+1cc to SPECIAL GOVERNMENT PLEADER in SR. No.59247

AM/DAS

JS/GT/SAR.2/20.06.2017/3P-4C

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M.P. (MD) .No.1 of 2013
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