

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 24.08.2018

Coram

The Hon'ble Mr. Justice Satrughana Pujahari

Writ Petition No. 21700 of 2018

and

W.M.P.Nos. 25457 and 25458 of 2018

Vasuki S.

...Petitioner

Vs.

1. The State of Tamil Nadu
Rep by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. The Director of Tamil Nadu School Education,
DPI Campus, Chennai - 600 006.

3. The Joint Director,
Higher Secondary Education,
DPI Campus, Chennai - 600 006.

4. Chief Educational Officer,
Tiruvallore District, Tiruvallore.

5. Chief Educational Officer,
Chennai District, Chennai.

...Respondents

Writ Petition filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorarified Mandamus to call for the records in connection with the G.O.(1d) No. 403 of School Education Pa.Ka. 5(1) department dated 29.05.2018 of the first respondent and quash the same insofar as it denies the petitioner her right to be considered for transfer as Head Master against any of the vacancies of her choice available in 2018 and to direct the respondents to consider the petitioner for transfer to the post of Head Master in Government Higher Secondary School, Triplicane, Chennai or in Government Girls Higher Secondary School, Mogappair (East), Chennai that are available for the present or any other vacancy available in the district of Chennai and in the adjoining districts, on account of upgradation of high school into higher secondary school or for any other reasons, according to her choice, treating her

request for transfer as one of priority on medical grounds, having due regard to her medical condition undergoing treatment for sever cancer.

For Petitioner : Mrs. Vijayakumari Natarajan

For Respondents : Mrs. P.Kavitha
Government Advocate

ORDER

Heard, Mrs. Vijayakumari Natarajan, the learned counsel appearing for the petitioner and Mrs.P.Kavitha, the learned Government Advocate who accepts notice on behalf of the respondents. With the consent of the learned counsel on either side, the Writ Petition is taken up for disposal at the stage of admission.

2. The grievance of the petitioner, in this Writ Petition is that, though she was promoted on 20.05.2017, but, as she has joined work only on 01.06.2017, she was not allowed to participate in the general transfer counseling made pursuant to the Government Order passed vide G.O.(1d) No.403 of School Education Department, dated 29.05.2018.

3. According to the petitioner, the stipulation of such condition debarring the petitioner to participate in the transfer counseling, taking into consideration the date of her appointment is illegal and arbitrary. It is the case of the petitioner that since she is a cancer patient, as such, she comes under the priority category as per clause 9 (iii) of the guidelines framed in the aforesaid Government Order, therefore, the cut-off date prescribed for transfer is not applicable to her, and as such, she has made a representation for her transfer eventhough she had joined in the present place of posting on 01.06.2017.

4. The learned counsel appearing for the petitioner submits that the petitioner was promoted on 20.05.2017, but allowed to join work on 01.06.2017, and as such, the cut off date as prescribed in the aforesaid Government Order has no application to her, inasmuch as, for no contribution of hers, she was withheld in the post till 01.06.2017, and therefore, for all purposes, she should have been deemed to have held the post, to which, she is posted from 20.05.2017 i.e., on the next day of her promotion, and as such, the Government Order prescribing the aforesaid condition is illegal and arbitrary. Hence, notice be issued, the respondents be directed to file their response and pending disposal of the Writ Petition, the petitioner may be allowed to participate in the counseling in respect of certain

posts, which has fallen vacant, for her transfer. However, alternatively, a prayer has also been made otherwise indicating the fact that since the petitioner is a cancer patient, as such, she comes under priority category as per Clause 9 (iii) of the G.O. dated 29.05.2018. Thus, as per the said clause, her case is required to be considered. Hence, order be passed directing the respondents to consider her representation.

5. The learned Government Advocate for the respondents submits that the petitioner has no case in challenging the Government Order. Considering the fact that the petitioner was posted on 01.06.2017 against the vacancy that arose on that day, therefore, the petitioner cannot be heard on saying that her non-joining in the present place of posting prior to 01.06.2017 is for the reasons attributable to the respondents. Hence, the Writ Petition on the aforesaid ground is devoid on merit. So far as the representation of the petitioner is concerned to transfer her on health ground as she is a cancer patient, it is submitted that if such representation has been filed, the same shall be considered by the respondents within the period stipulated by this Court in accordance with law, but no fetter be put on the respondents to consider such representation in any particular manner.

6. Regard being had to the aforesaid facts and submissions made, this Court is of the opinion that the petitioner has made out no case for challenging the aforesaid stipulation of the Government Order, and consequently, the right for being considered for participation in the general transfer. However, as it is submitted that the petitioner has filed a representation seeking her transfer on the health reasons indicating therein that she is a cancer patient and for her treatment, she needs a posting in Chennai, where, many posts are lying vacant, the respondents shall take an informed and considered decision on such representation of the petitioner but, in accordance with law, within a period of four weeks from the date of receipt of the copy of this order. But, it is made clear that this Court has expressed no opinion on merits of such representation in any particular manner. Consequently, connected Writ Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The State of Tamil Nadu
Rep by its Principal Secretary,
Department of School Education,
Fort St. George, Chennai - 600 009.

2. The Director of Tamil Nadu School Education,
DPI Campus, Chennai - 600 006.

3. The Joint Director,
Higher Secondary Education,
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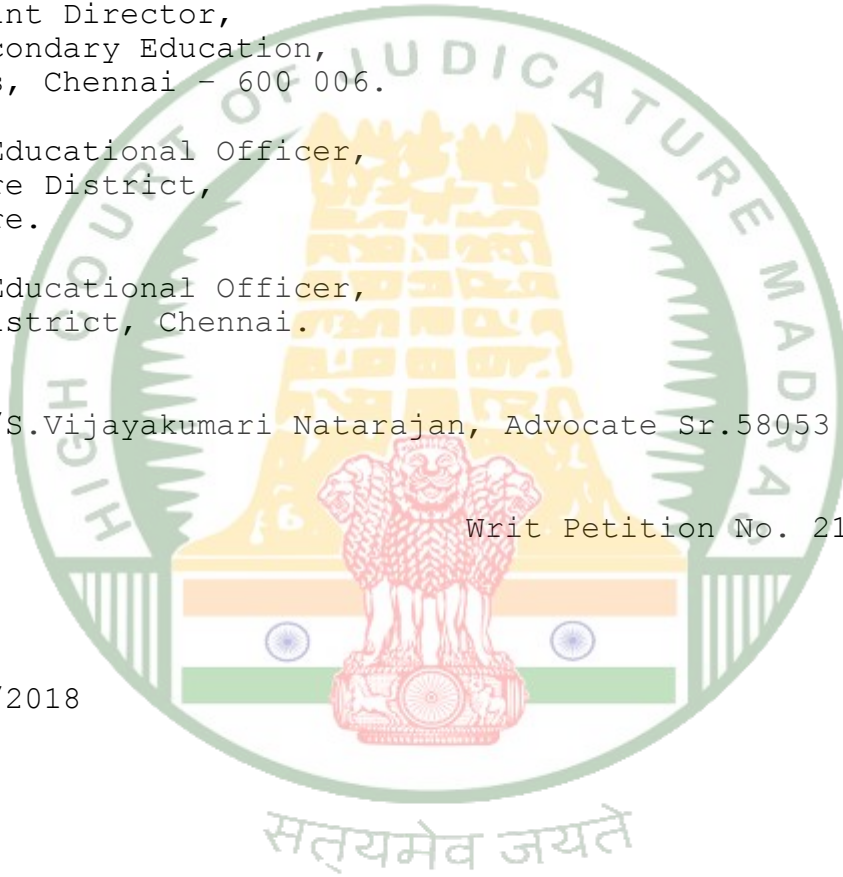
4. Chief Educational Officer,
Tiruvallore District,
Tiruvallore.

5. Chief Educational Officer,
Chennai District, Chennai.

+1cc to M/S.Vijayakumari Natarajan, Advocate Sr.58053

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srg 19/09/2018



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