



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Special Original Jurisdiction)

Wednesday, the Thirteenth day of June Two Thousand Eighteen

PRESENT

The Hon`ble Mr.Justice R.SURESH KUMAR

W.M.P. (MD) Nos.11634,11636,11638,11640 and 11642 of 2018
in

W.P (MD) Nos.12751,12752,12753,12754 and 12755 of 2018

P.MANICKAVASAGAM	... Petitioner/ Petitioner in WMP(MD). 11634/ 2018 in WP (MD) No.12751/2018
C.LOGAMURUGAN	... Petitioner/ Petitioner in WMP(MD). 11636/ 2018 in WP (MD) No.12752/2018
O.SELVAM	... Petitioner/ Petitioner in WMP(MD). 11638/ 2018 in WP (MD) No.12753/2018
M.ANANTH	... Petitioner/ Petitioner in WMP(MD). 11640/ 2018 in WP (MD) No.12754/2018
K.VENKATESAN	... Petitioner/ Petitioner in WMP(MD). 11642/ 2018 in WP (MD) No.12755/2018

- Vs. -

- 1 THE STATE OF TAMILNADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9
- 2 THE DIRECTOR OF SCHOOL EDUCATION,
NUGAMBAKKAM, CHENNAI - 6
- 3 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(PERSONNEL),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006
- 4 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006.



5 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATION OFFICER,
COLLECTORATE CAMPUS, VIRUDHUNAGAR DISTRICT.

6 THE DISTRICT EDUCATIONAL OFFICER,
O/O. THE DISTRICT EDUCATION OFFICER,
COLLECTORATE CAMPUS,
VIRUDHUNAGAR DISTRICT.

... Respondents/ Respondents
in WMP(MD). 11634/ 2018
in WP (MD) No.12751/2018

1 THE STATE OF TAMILNADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9

2 THE DIRECTOR OF SCHOOL EDUCATION,
NUGAMBAKKAM, CHENNAI - 6

3 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(PERSONNEL),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006.

4 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006.

5 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATION OFFICER,
ARANMANAI, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

6 THE DISTRICT EDUCATIONAL OFFICER,
O/O. THE DISTRICT EDUCATION OFFICER,
PARAMAKUDI, RAMANATHAPURAM DISTRICT.

... Respondent/ Respondents
in WMP(MD). 11636/ 2018
in WP (MD) No.12752/2018

1 THE STATE OF TAMILNADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9

2 THE DIRECTOR OF SCHOOL EDUCATION,
NUGAMBAKKAM, CHENNAI - 6

3 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(PERSONNEL),

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

O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006



4 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006

5 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATIONAL OFFICER,
THALAKULAM, MADURAI DISTRICT.

6 THE DISTRICT EDUCATIONAL OFFICER,
O/O. THE DISTRICT EDUCATION OFFICER,
USILAMPATTI, MADURAI DISTRICT.

... Respondents/ Respondents
in WMP(MD). 11638/ 2018
in WP (MD) No.12753/2018

1 THE STATE OF TAMILNADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9

2 THE DIRECTOR OF SCHOOL EDUCATION,
NUNGAMBAKKAM, CHENNAI-6.

3 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(PERSONNEL),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI 600 006.

4 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY)
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI 600 006.

5 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATIONAL OFFICER,
ARANMANAI, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

6 THE DIRECT EDUCATIONAL OFFICER
O/O. THE DISTRICT EDUCATIONAL OFFICER,
ARANMANAI, RAMANATHAPURAM,
RAMANATHAPURAM DISTRICT.

... Respondents/ Respondents
in WMP(MD). 11640/ 2018
in WP (MD) No.12754/2018

1 THE STATE OF TAMILNADU,
REP. BY ITS SECRETARY TO GOVERNMENT,
SCHOOL EDUCATION DEPARTMENT,
FORT ST. GEORGE, CHENNAI - 9

2 THE DIRECTOR OF SCHOOL EDUCATION,
NUGAMBAKKAM, CHENNAI - 6



3 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(PERSONNEL),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006

4 THE JOINT DIRECTOR OF SCHOOL EDUCATION
(HIGHER SECONDARY),
O/O. THE JOINT DIRECTOR OF SCHOOL EDUCATION,
CHENNAI - 600 006

5 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATION OFFICER,
THENI, THENI DISTRICT.

6 THE DISTRICT EDUCATIONAL OFFICER,
O/O. THE DISTRICT EDUCATION OFFICER,
PERIYAKULAM, THENI DISTRICT.

... Respondents/ Respondents
in WMP(MD). 11642/ 2018
in WP(MD)No.12755/2018

Prayer in WMP(MD). 11634/ 2018 in WP(MD)No.12751/2018:

Petition praying that in the circumstances stated therein and in the affidavit filed therewith the High Court may be pleased to grant an Ad interim Stay of operation of the impugned order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 pending disposal of the above writ petition.

Prayer in WMP(MD). 11636/ 2018 in WP(MD)No.12752/2018:

To grant an ad-interim stay of operation of the impugned order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 (Published in the internet on 11.06.2018 pending disposal of the above writ petition

Prayer in WMP(MD). 11638/ 2018 in WP(MD)No.12753/2018:

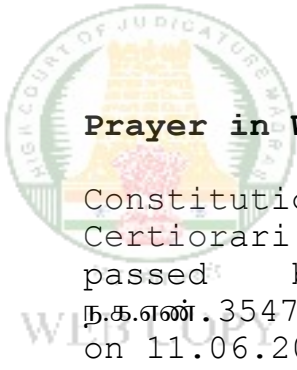
To grant an Ad interim stay of operation of the impugned order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 pending disposal of the above writ petition.

Prayer in WMP(MD). 11640/ 2018 in WP(MD)No.12754/2018:

To grant an ad-interim Stay of operation of the impugned order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated .06.2018 pending disposal of the above Writ Petition.

Prayer in WMP(MD). 11642/ 2018 in WP(MD)No.12755/2018:

To grant an Ad interim stay of operation of the impugned order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 pending disposal of the above writ petition.



Prayer in WP(MD) . 12751/ 2018 :

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 order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 (Published in the internet on 11.06.2018) and quash the same as illegal.

Prayer in WP(MD) . 12752/ 2018 :

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 order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 (Published in the internet on 11.06.2018) and quash the same as illegal.

Prayer in WP(MD) . 12753/ 2018 :

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 order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 (Published in the internet on 11.06.2018) and quash the same as illegal.

Prayer in WP(MD) . 12754/ 2018 :

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 order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06/2018 (published in the internet on 11.06.2018).

Prayer in WP(MD) . 12755/ 2018 :

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 order passed by the 4th respondent in his proceedings ந.க.எண்.35476/W1/இ1/2018 dated Nil.06.2018 (Published in the internet on 11.06.2018) and quash the same as illegal.

ORDER : These petitions coming on for orders upon perusing the petitions and the affidavits filed in support thereof and upon hearing the arguments of Mr.AJMAL KHAN, Senior Counsel for M/S.AJMAL ASSOCIATES for the petitioner in all the petitions and of Mrs.SRIMATHY, Special Government Pleader on behalf of the Respondents in all the petitions, the court made the following order:-

In all these cases, the respective petitioners have challenged the impugned order vide Na.Ka.No.35476/W1/E1/2018 dated Nil. 06.2018, passed by the third respondent. The said order in fact has been uploaded in the website of the respondent department.



By the import of the impugned order all the Deputy Inspector of Schools like the petitioners and other Education Department officials like APO, SSA, ADPC etc have been directed to make application on or before 11.06.2018 @ 6.30 p.m through online, by uploading the said application, expressing their willingness to participate in the counselling to be conducted for transfer, by the respondent.

2. In this regard, the learned Senior Counsel appearing for the petitioners submitted that, all the petitioners are working as Deputy Inspector of Schools and they have been appointed in the said post after passing out a test. He would further submit that, even though the post of Deputy Inspector of Schools is equivalent to BT Assistant, since both the posts can be interchangeable, the incumbents can be transferred from one post to another. Further, the element of compulsion compelling these petitioners to upload their applications compulsorily expressing their willingness subjecting themselves to the process of transfer cannot be made.

3. The learned Special Government Pleader appearing for the respondents in this regard would submit that, the right of transfer is always available to the employer/respondents/Government. The transfer policy of the Government is that, those who have served in a particular place for more than three years shall be subjected to transfer in order to streamline the administration. Therefore the present impugned order is made only to transfer those who have completed three years in one station, so that they can participate in the counselling for transfer according to their willingness and favoured place would be identified in which they would be posted.

4. Even otherwise, independently the Government can pass orders transferring those who served more than three years in one station on administrative exigency and in that case the very same petitioners may raise an issue that, instead of transferring them by way of isolated order they can be given a chance of participating in the counselling and in that case they would be in a position to opt for favoured places.

5. Therefore the learned Special Government Pleader would submit that in order to give such an opportunity to the petitioners and other similarly placed persons, such a chance was given through the impugned order directing them to apply through online, hence, it shall not be construed as a compulsion, causing any prejudice to them.

6. However, the learned Senior Counsel appearing for the petitioners would submit that, whatever be the reason, the element of compulsion attached with the impugned order cannot be accepted, even though it is a prerogative of the respondents to give transfer to anyone working under them at administrative exigency. If at all the respondents exercise that right they can do so, of course, within the parameter of the legal principle on transfer.



7.I have considered the submissions made by both sides.

8.As rightly pointed out by the learned Senior Counsel for the petitioners, even though it is the prerogative of the respondents to transfer any employee, the same cannot be made by way of compulsory involvement of the incumbents themselves by making them to make an application voluntarily subjecting themselves to the process of transfer.

9.In view of such element of compulsion, which is apparently available in the impugned proceedings, this Court is of the view that the said exercise cannot be permitted to be executed. Therefore this Court is inclined to pass the following interim order:-

" 1. There shall be an interim order of stay of the said impugned order/ Proceedings/ communication insofar as the petitioners are concerned.

2. It is made clear that if any of these petitioners in the near future suffer with any transfer order in view of administrative reasons, they shall not raise the ground that they have not been given an opportunity to choose their favoured place by permitting them to participate in the counselling"

Post the matter after three weeks.

sd/-
13/06/2018

/ TRUE COPY /

Sub-Assistant Registrar (C.S.)
Madurai Bench of Madras High Court,
Madurai - 625 023.

TO

- 1 THE SECRETARY TO GOVERNMENT,
THE STATE OF TAMILNADU,
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O/O. THE DISTRICT EDUCATION OFFICER,
USILAMPATTI, MADURAI DISTRICT.

11 THE DIRECT EDUCATIONAL OFFICER
O/O. THE DISTRICT EDUCATIONAL OFFICER,
ARANMANAI, RAMANATHAPURAM, RAMANATHAPURAM DISTRICT.

12 THE CHIEF EDUCATIONAL OFFICER
O/O. THE CHIEF EDUCATION OFFICER, THENI, THENI DISTRICT.

13 THE DISTRICT EDUCATIONAL OFFICER,
O/O. THE DISTRICT EDUCATION OFFICER, PERIYAKULAM, THENI DISTRICT.

+1CC TO SPECIAL GOVERNMENT PLEADER, SR NO.10532

+5CC TO M/S.AJMAL ASSOCIATES Advocate SR.Nos.10371 to 10375

ORDER IN

W.M.P.(MD) Nos.11634,11636,11638,11640
and 11642 of 2018 in

W.P(MD) Nos.12751,12752,12753,12754 and
12755 of 2018

Date :13/06/2018