



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.07.2018

CORAM:

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THE HON'BLE MR.JUSTICE R.SURESH KUMAR

W.P. (MD) No.13525 of 2018

and

W.M.P. (MD) Nos.12331 & 12332 of 2018

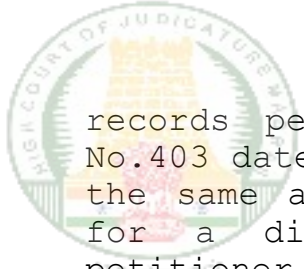
M.Chithambaranathan

...Petitioner

Vs.

- 1) State of Tamil Nadu,
Rep., by its Principal Secretary,
Department of School Education,
Fort St.George,
Chennai 600 009
- 2) The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
Chennai 600 006
- 3) The Joint Director of School
Education (Higher Secondary),
O/o. The Joint Director of
School Education (Higher Secondary),
DPI Campus,
Chennai 600 006
- 4) The Chief Educational Officer,
O/o the Chief Educational Officer,
Ramanathapuram,
Ramanathapuram District.
- 5) The Chief Educational Officer,
O/o the Chief Educational Officer,
Kanyakumari,
Kanyakumari District.
- 6) The District Educational Officer,
O/o. The District Educational Officer,
Mandapam,
Ramanathapuram District.

.. Respondents



records pertaining to the impugned Government Order in G.O.(1D) No.403 dated 29.05.2018 on the file of the respondent No.1 and quash the same as illegal insofar as Condition No.8(i) and consequently for a direction, directing the respondents to transfer the petitioner in the post of Higher Secondary School Headmaster in the retirement vacancy arising on 01.07.2018 at Government Higher Secondary School , Vallankumaravillai, Kanyakumari District or any other vacant post in Kanyakumari District within the time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman
 For Respondents : Mrs.S.Srimathy,
 Special Government Pleader.

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned Government Order in G.O.(1D) No.403 dated 29.05.2018 on the file of the respondent No.1 and quash the same as illegal insofar as Condition No.8(i) and consequently for a direction, directing the respondents to transfer the petitioner in the post of Higher Secondary School Headmaster in the retirement vacancy arising on 01.07.2018 at Government Higher Secondary School , Vallankumaravillai, Kanyakumari District or any other vacant post in Kanyakumari District within the time period stipulated by this Court.

2. Heard Mr.T.Aswin Rajasimman, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents.

3. Mr.T.Aswin Rajasimman, learned counsel appearing for the petitioner, would submit that, even though a larger prayer has been sought for in this Writ Petition, the petitioner now confined with the prayer that he was not able to participate in the Counselling for Transfer to the post of Higher Secondary School Headmaster, by virtue of the main clause 8(i) of the impugned Government Order, subsequent to the Counselling, even now, some vacancies in Kanyakumari District are available, which is the native district of the petitioner and in this regard, the petitioner, subsequently, has given a representation dated 28.06.2018, therefore, if the said representation is directed to be considered by the respondents on merits and an order to that effect is passed within a time frame that may be fixed by this Court, the petitioner would be satisfied.

4. The learned counsel appearing for the petitioner would further submit that the petitioner has restricted his prayer only to seek for Mandamus, to direct the respondents to consider his representation dated 28.06.2018 on merits, within a time frame that may be stipulated by this Court.



5. I have heard Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents, who would submit that, the Counselling was already over and subsequent to the main counselling, spill over cases also have been considered and almost all the vacancies have been filled and still, if at all, one or two vacancies are there, it has to be ascertained by the respondents. Merely, because of one or two vacancies available, the petitioner cannot have any right to claim that, the petitioner should be transferred and posted in the said vacant place, as the respondents have to consider the over-all scenario, as the post of Headmaster in Higher Secondary School is required in every School and therefore, the present incumbent, if transferred from one School, the respondents must be in a position to replace him by giving transfer to another person to join in the transferred place.

6. Here, in the case in hand, if the petitioner is transferred to some other place, at his request, merely, because of vacancies available in his favourable place, then, the place where the petitioner is working would become vacant and that would cause prejudice to the School, where he is now working.

7. Further, the learned Special Government Pleader appearing for the respondents would submit that, considering these aspects, the request of the petitioner can be considered. However, at any rate, since the petitioner has come with a confined prayer for considering his representation dated 28.06.2018, certainly, the same would be considered and an order to that effect would be passed on merits within a time frame.

8. I have considered the submissions made by both sides and in view of the limited scope of the prayer, now has been sought for, by the petitioner or his counsel and a copy of the petitioner's representation dated 28.06.2018, which has been filed before this Court by way of an affidavit in the typed set of papers and after hearing the views of the learned Special Government Pleader appearing for the respondents, this Court is inclined to pass the following orders:

"That the second respondent is directed to consider the representation of the petitioner dated 28.06.2018 on merits and in accordance with law, by taking into account the need of the School, where the petitioner is working, as well as any of the Schools, where vacancy arose, as pointed out by the petitioner in his representation and pass orders thereon with regard to the grievance of the petitioner and such exercise shall be undertaken by the respondents within a period of four weeks from the date of receipt of a copy of this order."

9. Accordingly, this Writ Petition is disposed of. However,



there shall be no order as to costs. Consequently, connected W.M.P. (MD) Nos.12331 & 12332 of 2018 are closed.

Sd/-

Assistant Registrar (RTI)

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/True Copy/

Sub Assistant Registrar (CS-IV)

To

- 1) The Principal Secretary,
State of Tamil Nadu,
Department of School Education,
Fort St.George,
Chennai 600 009
- 2) The Director of School Education,
O/o. The Director of School Education,
DPI Campus,
Chennai 600 006
- 3) The Joint Director of School
Education (Higher Secondary),
O/o. The Joint Director of
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Kanyakumari,
Kanyakumari District.
- 6) The District Educational Officer,
O/o. The District Educational Officer,
Mandapam,
Ramanathapuram District.

+ 1 CC TO Mr.T.LAJAPATHI ROY, ADVOCATE IN SR No. 70755

+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 70900

STS

TE/BK/SAR-4 : 24/12/2018 : 4P/9C