



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.06.2018

CORAM :

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

W.P (MD) No.13554 of 2018

and

W.M.P. (MD) Nos.12346 and 12347 of 2018

V.Sagayaraj

... Petitioner

Vs.

1.The District Educational Officer,  
Manapparai Educational District,  
Manappaarai, Trichy District.

2.The Block Educational Officer-2,  
Block Educational Office,  
Manapparai, Trichy District.

3.The Headmaster,  
Panchayat Union Middle School,  
Edaiyapatti, Manapparai Block,  
Trichy District.

4.The Headmaster,  
Panchayat Union Middle School,  
Karuthakodangipatti,  
Manapparai Block,  
Trichy District.

5.D.Renugadevi

... Respondents

**Prayer:** This Writ Petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari Mandamus, calling for the records of the first respondent in Na.Ka.NO.5/A3/2018, dated 19.06.2018 issued to the petitioner and the consequential order of the 1<sup>st</sup> respondent in Na.Ka.No.5/A3/2018 dated 19.06.2018, issued to the 5<sup>th</sup> respondent and quash the same and consequently permit the petitioner to work as a Secondary Grade Teacher in the 3<sup>rd</sup> respondent School with all attendant benefits.

For Petitioner : Mr.M.Muthugeethayan

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

For Respondents : Mrs.S.Srimathy, Spl.G.P. For RR1-4

**ORDER**

The prayer sought for in this writ petition is for a Writ of Certiorari Mandamus, calling for the records of the first respondent in Na.Ka.NO.5/A3/2018, dated 19.06.2018 issued to the petitioner and the consequential order of the 1<sup>st</sup> respondent in Na.Ka.No.5/A3/2018 dated 19.06.2018, issued to the 5<sup>th</sup> respondent and quash the same and consequently permit the petitioner to work as a Secondary Grade Teacher in the 3<sup>rd</sup> respondent School with all attendant benefits.

2. Heard Mr.M.Muthugeethayan, learned counsel appearing for the petitioner and Mrs.S.Srimathy, learned Special Government Pleader appearing for the respondents 1 to 4/official respondents. Since no adverse order is going to be passed in this writ petition against the fifth respondent, notice to the fifth respondent is dispensed with.

3.The petitioner was working as Secondary Grade Teacher in a School called Panchayat Union Middle School, Edaiyapatti, Manapparai Block, Trichy District. In order to get transfer, he applied to participate in the general counselling held in this regard. Accordingly, he participated the counselling on 19.06.2018, where, he has chosen a favoured place called Panchayat Union Middle School, F.Keelaiyur, Manapparai Block, Trichy District. Pursuant to the said counselling process, as desired by the petitioner, the first respondent has passed the order dated 19.06.2018 giving transfer to the petitioner from Edaiyapatti School to F.Keelaiyur School. However, the petitioner, after getting this order dated 19.06.2018, claimed to have come to know that the students strength as of now at F.Keelaiyur School was only 57 and already two Secondary Grade Teachers are working in that School. If the petitioner joined there, he will be the third Secondary Grade Teacher in that School and as per the present norms, if the students strength crosses 60, then only, the third Teacher would be retained in the School, otherwise, the third Teacher would be treated as excess Teacher and immediately he may be sent out from F.Keelaiyur School to any other School during the middle of the academic year. Apprehending this, the petitioner, even though on his willingness and desire, got the order dated 19.06.2018 getting transfer to F.Keelaiyur School, has decided to challenge the very same order dated 19.06.2018 by filing this writ petition with the aforesaid prayer.

4.I have heard the learned counsel appearing for the petitioner, who would submit that, the petitioner, no doubt only on his willingness, got transfer to F.Keelaiyur School through the



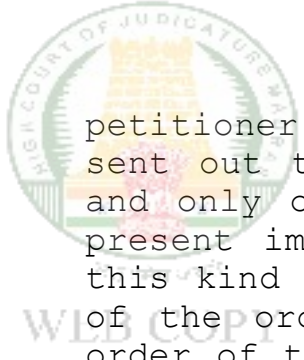
impugned order. But, only after receipt of the said order, the petitioner came to know that the students strength of the School at F.Keelaiyur was only 57 and therefore, if, it not crosses 60, the official respondents may at any time take a decision to decide the third Teacher as excess Teacher in that School and in such circumstances, since the petitioner would be joining now as third Teacher in F.Keelaiyur School, he alone would be considered to be an excess Teacher and accordingly, he would be transferred to some other School immediately. In order to avoid the same, the petitioner wanted to stay back in the School, where, he is presently working or from, where he has been transferred i.e. Edaiyapatti School. In fact, it is the further case of the petitioner that, the fifth respondent, who has been posted at Edaiyapatti School also had expressed her willingness not to join in the Edaiyapatti School and with the result, the petitioner was expecting that he can be retained at Edaiyapatti itself by cancelling the impugned order of transfer dated 19.06.2018. That is the reason, why, the petitioner approached this Court with the aforesaid prayer.

5.I have heard the learned Special Government Pleader appearing for the official respondents, who would submit that the present strength of the School F.Keelaiyur may be 57 and certainly, the students strength may raise as the last day for admission of students for the academic year 2018-19 would be upto 31.07.2018. Even if four students joined in the School, that crosses the limit of 60 and thereby as per the present norms, third Teacher in Secondary Grade level has to be retained. Therefore, the petitioner need not have any such apprehension that he would be immediately sent out from F.Keelaiyur School, if he joined there by showing the reason that the students strength is less than 60 and therefore, the third teacher is an excess Teacher and hence, he is no more required at the F.Keelaiyur School.

6.I have considered the submissions made by both sides and have been perused the materials available on record.

7.The place, where the petitioner now has been transferred i.e. F.Keelaiyur is not by way of transfer given by the official respondents. In fact, it was a transfer given by the official respondents, pursuant to the desire expressed by the petitioner through the counselling undertaken by the official respondents. Once, the petitioner has chosen a favoured place and that was accepted by the official respondents and orders also have been issued, subsequently on issuance of orders, the petitioner cannot normally make any hue and cry about the said order.

8.Here, in the case, a peculiar reason has been cited by the petitioner, challenging the impugned order, stating that based on the present strength of F.Keelaiyur School, where the



petitioner has been transferred, immediately, the petitioner would sent out to some other School during the middle of the academic and only on that apprehension, the petitioner had challenged the present impugned order. However, in the opinion of this Court, this kind of reason cannot be attributed for making the challenge of the order passed by the authorities as admittedly, the said order of transfer was issued to the petitioner as per the request of the petitioner. Therefore, the challenge fails.

9.Also as has been submitted by the learned Special Government Pleader appearing for the official respondents, at the time of passing the impugned order, may be the strength of F.Keelaiyur School was 57 and it does not mean that the strength would stay back as 57 for ever. Since the time for admission of students from various other Schools would be upto 31.07.2018, certainly the strength of the School would be increased. Once it is increased to 60 or beyond 60, certainly, as per the norms, the third Teacher is very much required in the School. Even otherwise, if the strength is not reached, by short of one or two students to reach 60 or 61, that may not be cited as the reason to make immediate transfer of the petitioner by showing her presence as an excess teacher, atleast for the academic year 2018-19. Therefore, such kind of apprehension, the petitioner need not to have for the present.

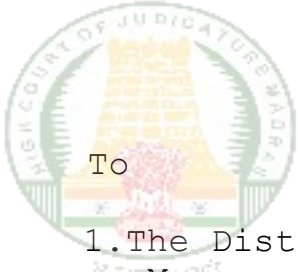
10.Moreover, today, when the case was heard, the learned counsel appearing for the petitioner submits that pursuant to the impugned order, the petitioner joined at the transferred place i.e. F.Keelaiyur on 26.06.2018. When that being the position, the petitioner can continue in the said School atleast for the academic year 2018-19 as has been rightly pointed out by the learned Special Government Pleader in this regard and therefore, the challenge made to the impugned order, by the writ petitioner, by mere apprehension, which has been clarified by the respondent side, cannot be sustained. Therefore, recording the said submissions made by both sides, this Court is inclined to dispose of this writ petition as the challenge cannot be accepted and accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar (CS)



To

1.The District Educational Officer,  
Manapparai Educational District,  
Manappaarai, Trichy District.

2.The Block Educational Officer-2,  
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3.The Headmaster,  
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Karuthakodangipatti,  
Manapparai Block,  
**Trichy District.**

**+1 cc to Mr.M.Muthugeethayan , Advocate SR.No.70263**

**ARUL**

**W.P(MD)No.13554 of 2018**  
**28.06.2018**

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