



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT  
DATED : 28.06.2018  
CORAM:

THE HON'BLE MR.JUSTICE R.SURESH KUMAR

WEB COPY

W.P.(MD)No.13802 of 2018  
and  
W.M.P.(MD) Nos.12520 to 12522 of 2018

M.Jeyachandra

... Petitioner

Vs.

1) The Secretary to Government,  
Education Department,  
Fort St.George,  
Chennai.

2) The Director of School Education,  
College Road,  
Chennai.

3) The Joint Director of School Education,  
(Higher Secondary),  
College Road,  
Chennai.

4) The Chief Educational Officer,  
District Collectorate Complex,  
Virudhunagar,  
Virudhunagar District.

5) The Chief Educational Officer,  
Seena Vana Government  
Higher Secondary School,  
V.E.Road, Tuticorin.

... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned Government Order in G.O. (ID) No.403 dated 29.05.2018 on the file of the 1<sup>st</sup> respondent and quash the same as illegal in so far as Condition No.8(i) and consequently for a direction, directing the respondents to consider the petitioner's representation dated 23.06.2018 for transfer to Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur, Tuticorin District to the post of P.G., Assistant (Commerce), within the time period stipulated by this Court.

For Petitioner

: Mr.V.Perumal

For Respondents

: Mr.K.Saravanan,

Government Advocate.

O R D E R

The prayer sought for in this Writ Petition is for a Writ of Certiorarified Mandamus, to call for the entire records pertaining to the impugned Government Order in G.O.(ID) No.403 dated 29.05.2018 on the file of the 1<sup>st</sup> respondent and quash the same as illegal insofar as Condition No.8(i) and consequently for a direction, directing the respondents to consider the petitioner's representation dated 23.06.2018 for transfer to Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur, Tuticorin District to the post of P.G., Assistant (Commerce).

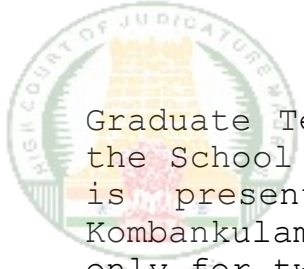
2. Heard Mr.V.Perumal, learned counsel appearing for the petitioner and Mr.K.Saravanan, learned Government Advocate appearing for the respondents.

3. Learned counsel for the petitioner would submit that, even though Clause 8(i), under the impugned Government Order (i.e.,) G.O. (1D) No.403, Education Department dated 29.05.2018 is under challenge, the petitioner is ready and willing to give up the said prayer and confining with the prayer for considering her representation dated 23.06.2018, submitted to the respondents and if a direction is given to the respondents to consider the same on merits and an order to that effect is directed to be passed, the petitioner will be satisfied.

4. I have heard Mr.K.Saravanan, learned Government Advocate appearing for the respondents, who would submit that, though some vacancies were pointed out by the petitioner, the petitioner was not eligible to participate in the General Counselling, under Clause 8 (i) of the impugned Government Order. By virtue of that, it seems that, the petitioner has not participated in the Counselling and also, where the Counselling was already over, the question of considering the petitioner's candidature does not arise at all.

5. However, the learned counsel appearing for the petitioner would point out that, Clause 17, which is an enabling provision under the impugned Government Order, states that, even after the Counselling is over, on considering the Students welfare as well as the Teachers welfare and on administrative exigencies, transfer can be given to the Teachers, depending upon the vacancies.

6. By citing the said Clause 17 under the impugned Government Order, learned counsel appearing for the petitioner would submit that, the petitioner has given an option through her representation dated 23.06.2018, to transfer her to any of the two schools viz., Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur and Government Higher Secondary School, Keelapooovani, Tuticorin District. In this regard, the learned counsel appearing for the petitioner would also submit that, by proceedings dated 26.06.2018 issued by the fifth respondent, since there is no Post



Graduate Teacher available for taking class in Commerce subject in the School at Thiruchendur, a Post Graduate Teacher of Commerce, who is presently working at Government Higher Secondary School, Kombankulam has been directed to take class at Thiruchendur School, only for two days per week (i.e.,) on Thursday & Friday.

7. In this regard, the learned counsel appearing for the petitioner would submit that, the School for which the petitioner has now sought for transfer is having a vacancy of Post Graduate Teacher (Commerce), where, the need for Post Graduate Teacher has prompted the fifth respondent and that is the reason why a stop gap arrangement was made by the fifth respondent vide proceedings dated 26.06.2018, by which one Teacher, already working in Government Higher Secondary School, Kombankulam was directed to take class, only for two days per week. Therefore, this Clause 17 under the impugned Government Order can very well be invoked, at the interest of the students studying in the School and the request of the petitioner, positively can be considered for transfer to the Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur.

8. I find some force in the contentions made by the learned counsel appearing for the petitioner.

9. Guidelines were given in the impugned Government Order vide G.O.(1D) No.403, Education Department dated 29.05.2018, which is under challenge, and it has been given up by the petitioner. The beneficial Clause 17 of the impugned Government Order has been pointed out by the learned counsel appearing for the petitioner. In the opinion of this Court, it can be pressed into service in the present circumstance of the case, as this case can very well be fit in, as a case for revoking Clause 17 of the impugned Government Order. In that view of the matter, this Court is inclined to pass the following orders:

"(i) that the respondents, especially, the fifth respondent, is directed to consider the representation of the petitioner dated 23.06.2018, seeking transfer to any of the two schools mentioned therein, including the Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur and pass orders on merits and in accordance with law thereon;

(ii) While considering the said representation, the fifth respondent shall take into account, the vacancy position available at Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur, where admittedly, there is no Post Graduate Teacher for Commerce available and the fifth respondent by proceedings dated 26.06.2018 has directed the present Teacher working at Government Higher Secondary School, Kombankulam to take classes only on Thursday and Friday.

(iii) Considering these situations and vacancy position and also by taking into account the interest of the students studying at Arulmighu Senthilandavar Boys Government Higher Secondary School, Thiruchendur, by invoking Clause 17 of the impugned G.O.(1D) No.403, Education Department dated 29.05.2018, the petitioner's representation dated 23.06.2018 shall be considered objectively, and an order to that effect shall be passed within a period of two weeks from the date of receipt of a copy of this order."

10. With these directions, the Writ Petition is disposed of. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AD-II)

/True Copy/

Sub Assistant Registrar

To

- 1) The Secretary to Government,  
Education Department,  
Fort St.George,  
Chennai.
- 2) The Director of School Education,  
College Road,  
Chennai.
- 3) The Joint Director of School Education,  
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Virudhunagar,  
Virudhunagar District.
- 5) The Chief Educational Officer,  
Seena Vana Government  
Higher Secondary School,  
V.E.Road,  
Tuticorin.

+1cc to M/S.V.Karthikeyan, Advocate SR.No. 70195

+1cc to Special Government Pleader, SR.No. 70506

Order made in  
W.P. (MD) No.13802 of 2018  
28.06.2018

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