



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED 04.09.2018

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THE HONOURABLE MR.JUSTICE S.VAIDYANATHAN

W.P (MD) Nos.19184 and 19185 of 2018

and

W.M.P (MD) Nos.17021 and 17022 of 2018

1. M.Kathiresan
Superintendent,
Chief Educational Office,
Sivagangai District.

..Petitioner
in W.P (MD) No.19184 of 2018

2. R.K.Ravichandran
Superintendent,
Additional Chief Educational Office (SSA),
Sivagangai District.

..Petitioner
in W.P (MD) No.19185 of 2018

Vs

The Chief Educational Officer,
Office of the Chief Educational Office,
Collectorate Complex,
Sivagangai District.

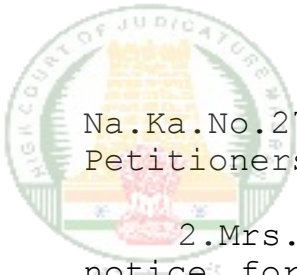
.. Respondent in both W.Ps'

Common Prayer: Writ Petitions 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 respondent vide his impugned proceedings in Na.Ka.No.2718/Aa.1/2018/dated 31.8.2018 and quash the same as illegal insofar as the Petitioner is concerned within the time stipulated by this Court.

For Petitioners	: Mr.Ajmal Khan
in both W.Ps'	Senior Counsel
	for M/s.Ajmal Associates
For Respondent	: Mrs.S.Srimathi
in both W.Ps'	Spl Govt.Pleader

COMMON ORDER

The Petitioners have come forward with these Writ Petitions seeking to issuance a Writ of Certiorari to quash the impugned order passed by the respondent vide his impugned proceedings in



Na.Ka.No.2718/Aa.1/2018/dated 31.8.2018 as illegal insofar as the Petitioners are concerned within the time stipulated by this Court.

2.Mrs.S.Srimathi, learned Special Government Pleader takes notice for the respondent. By consent of both parties, the Writ Petitions itself are taken up for final disposal at the admission stage.

3.It is the case of the Petitioners that Kathiresan was transferred on administrative grounds and Mr.R.K.Ravichandran on request. These two persons have been transferred on administrative grounds and on request by order dated 30.8.2018. On 31..8.2018, another order was passed, which is impugned in these Writ Petitions cancelling the earlier order of transfer without assigning any reason. According to the Petitioners if reasons are not assigned, the impugned order will have to be set aside and that on administrative reasons transfer order has been effected to Mr.Kathiresan and also to Ravichandran on request. Hence the impugned order has got to be interfered with.

4.When the matter is taken up for hearing, the learned Special Government Pleader appearing for the respondents fairly submitted that there is no reason assigned in the impugned order, which can be interfered with, with liberty to exercise administrative power, if so required.

5.The learned counsel for the Petitioners also relied on a decision in the case of **Kranti Associates Private Limited and another .vs. Masood Ahmed and others reported in (2010)9 Supreme Court Cases 496**, in which, it is held as follows:

'47.Summarizing the above discussion, this Court holds:

(a)In India the judicial trend has always been to record reasons, even in administrative decisions, if such decisions affect anyone prejudicially.

(b)A quasi judicial authority must record reasons in support of its conclusions.

(c)Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(d)Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(e)Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

<https://hcservices.ecourts.gov.in/hcservices> have virtually become as indispensable a component of a decision-making process as observing principles of natural justice



by judicial, quasi-judicial and even by administrative bodies.

(g) Reasons facilitate the process of judicial review by superior courts.

(h) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(i) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants faith in the justice delivery system.

(j) Insistence on reason is a requirement for both judicial accountability and transparency.

(k) If a Judge or a quasi judicial authority is not candid enough about his/her decision making process, then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(l) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or 'rubber stamp reasons' is not to be equated with a valid decision making process.

(m) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision making not only makes the Judges and decision makers less prone to errors but also makes them subject to broader scrutiny (See David Shapiro in Defence of Judicial Candor.)

(n) Since the requirement to record reasons emanates from the broad doctrine of fairness in decision making, the said requirement is now virtually a component of human rights and was considered part of Strasbourg Jurisprudence. See Ruiz Torija .vs. Spain EHRR, at 562 Para 29 and Anya .vs. University of Oxford, wherein the Court referred to Article 6 of the European Convention of Human Rights which requires.

'adequate and intelligent reasons must be given for judicial decisions'.

(o) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of



the essence and it is virtually a part of 'due process'.'

6. Taking note of the submissions made on either side and the decision cited supra, the impugned order has got to be interfered with. Accordingly, these Writ Petitions are allowed and the impugned proceedings in Na.Ka.No.2718/Aa.1/2018/dated 31.8.2018 passed by the first respondent is set aside, with liberty to the respondents to take decision afresh, if required. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (AD-I)

/True Copy/

Sub Assistant Registrar (CS-II)

To

The Chief Educational Officer,
Office of the Chief Educational Office,
Collectorate Complex,
Sivagangai District.

+ 2 CC TO M/s.AJMAL ASSOCIATES, IN SR No. 82293 & 82294
+ 1 CC TO SPECIAL GOVERNMENT PLEADER IN SR No. 82493 & 82487

VSN

TE/SV/SAR-2 : 23/11/2018 : 4P/5C

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