

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.05.2019

Coram

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Writ Petition No.14836 of 2019 &
W.M.P.No.14817 of 2019

S.Hari Shankar ... Petitioner
Vs.

1. The Regional officer,
Central Board of Secondary Education,
New No.3, Old No.1630 A, J Block,
16th Main Road, Anna Nagar West,
Chennai 600 040.
2. The Principal,
National Public School,
228, Avvai Shanmugam Road,
Gopalapuram, Chennai 600 086. Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue certiorarified mandamus calling for all relevant records relating to the impugned rejection order (Endorsement made on the petitioner's requisition letter) dated 20.05.2019 of the 2nd respondent school to quash the same as arbitrary, improper, unjust, unconstitutional, against the rules and procedures of the 1st and 2nd respondents, thereby directing the respondents 1 and 2 to consider the representation of the petitioner in the light of the Hon'ble High Court order in Guardian OP.376 of 2018 and the family court order in HMOP No.1518 of 2018 and consequently to issue transfer certificate to the petitioner's son Haren Hari Shankar.

For Petitioner : Mr.P.K.Rajesh Praveenkumar

For Respondents: Mr.Vimal B.Crimson (R2)

Mrs. Nalini Chidambaram
(Senior Counsel) for M/s Auxilia Peter,
M/s Divya (for the mother, who is not a
party in this Writ Petition)

O R D E R

This Writ Petition has been filed to issue certiorarified mandamus calling for all relevant records relating to the impugned rejection order (Endorsement made on the petitioner's requisition letter) dated 20.05.2019 of the 2nd respondent school to quash the same as arbitrary, improper, unjust, unconstitutional, against the rules and procedures of the 1st and 2nd respondents, thereby directing the respondents 1 and 2 to consider the representation of the petitioner in the light of the Hon'ble High Court order in Guardian OP.376 of 2018 and the family court order in HMOP No.1518 of 2018 and consequently to issue transfer certificate to the petitioner's son Haren Hari Shankar.

2. Admittedly, in O.P.No.376 of 2018, the custody of the minor child has been permanently given to the writ petitioner, in fact on consent given by his wife. The order of this court makes it very clear that the child was handed over to the custody of the writ petitioner by the wife of the writ petitioner. Since the writ petitioner is now residing in Trichy along with his parents, he wants to join the minor child in a school at Trichy and he has also obtained admission for his child in SBIOA School, Trichy. He has also produced the record to show that he has already obtained admission for his son in CBSE School at Trichy.

3. At this stage, the learned Senior Counsel, Mrs.Nalini Chidambaram, appearing for the wife of petitioner has objected that, she should be heard and she may be given time for filing counter. According to the learned Senior Counsel, her client is intended to take appropriate application to review the order passed by this court and has also filed another Original Petition before this court and hence, objected for passing any orders.

4. The learned counsel appearing for the School is also present. I have heard him.

5. Admittedly, the academic year commences from June and no one can dispute that. The writ petitioner is a permanent resident of Trichy and custody of the minor child was handed over to him as per the order of this court in the month of June 2019. Once the custody of the minor child is handed over to the writ petitioner, it cannot be stated that the custody of the writ petitioner cannot be granted on the ground that the review petition is likely to be filed. The court being the parens patriae/guardian of the minor children, has to see the welfare of the minor children. The matrimonial dispute between the husband and wife should not be a reason to spoil the education

of the minor children. Therefore, when the writ petitioner has already been given in custody of his minor child, he has right to educate his child. The school authority cannot withhold the Transfer Certificate.

6. Accordingly, the School Authority is directed to issue Transfer Certificate to the writ petitioner. It is made clear that the child should not be moved from Trichy to any other place and the writ petitioner shall admit his child in SBIOA School, Trichy and produce the child once in a month, last Saturday of every month, commencing from 29.06.2019 before the Mediation Centre, High Court. It is also made clear that whenever the mother of the child intends to visit the child, the same should not be denied. The child may be with his mother for reasonable time, when the mother visits the child at Trichy. The liberty is also granted to the mother to visit her child every week and spend some time in an important place at Trichy and hand over the child to the writ petitioner. In the event of the order of this court dated 21.01.2019 is modified or interfered, the writ petitioner shall abide by the orders of this court.

7. With the above observations, the writ petition is disposed of. Consequently, the connected miscellaneous petition is closed. No cost.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

vrc

To

1. The Regional officer,
Central Board of Secondary Education,
New No.3, Old No.1630 A, J Block,
16th Main Road, Anna Nagar West, Chennai 600 040.
2. The Principal,
National Public School,
228, Avvai Shanmugam Road, Gopalapuram, Chennai 600 086.
+1 cc to M/s.Divya, Advocate, Sr.No. 44492
+1 cc to Mr.P.K.Rajesh Praveen Kumar, Advocate, Sr.No. 44481

Writ Petition No.14836 of 2019

CSL/07.06.2019