



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.02.2020**

CORAM:

THE HONOURABLE MR.JUSTICE **M.S.RAMESH**

W.P. (MD) No.2531 of 2020

and

W.M.P. (MD) Nos.2179 & 2180 of 2020

WEB COPY

N.Sivabalan

... Petitioner

/vs./

1.The Personal Assistant to the Commissioner of
Adi Dravidar Welfare,
Adi Dravidar and Tribal Welfare Department,
Chepauk,
Chennai 5.

2.The Superintendent 'C' Section,
Adi Dravidar and Tribal Welfare Department,
Chepauk,
Chennai 5.

3.The Headmaster,
The Government Adi Dravidar Welfare
Higher Secondary School,
M.R.Palayam,
Trichy District.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for issuance of Writ of Certiorari, calling for the records pertaining to the order passed by the second respondent dated 01.02.2020 in Na.Ka.No.E5/1559/2020 and quash the same.

For Petitioner : Mr.R.Vijayakumar

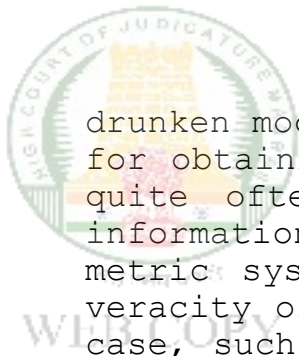
For Respondents : Mr.C.M.Marichellaiah Prabhu
Additional Government Pleader

ORDER

This Writ Petition is filed to quash the order dated 01.02.2020 passed in Na.Ka.No.E5/1559/2020 by the second respondent.

2.The learned counsel appearing for the petitioner has predominantly raised a ground that the impugned transfer order dated 01.02.2020 is punitive in nature and not an administrative transfer as alleged. Apart from such ground, the learned counsel would also make a sympathetic plea that the petitioner's son is studying in 10th standard and that the petitioner has certain medical ailments.

3.The learned Additional Government Pleader on the other hand would submit that the petitioner's employment in the third respondent school has not been conducive. According to the information, the petitioner attends the school consistently in a



drunken mood; he is alleged to have taken gratification in the guise for obtaining employment for the post of Cook from several persons; quite often refrains from coming to the school without prior information or recording abstains from his presence in the bio-metric system, etc. This Court does not intend to go into the veracity of the allegations made as against the petitioner. But in case, such information are available with the second respondent and by taking into account the welfare of the students, a decision is taken to transfer the petitioner and it cannot be said that such decision would be punitive in nature. As a matter of fact, such a decision based on the allegations on the conduct of the petitioner and for maintaining a conducive atmosphere, can be termed as a transfer on administrative grounds. When the interest and welfare of the school is taken as a paramount consideration, the decision to provide a conducive atmosphere, cannot be termed as punitive in nature.

4. Insofar as the plea that the petitioner's son is studying in 10th standard and that the petitioner is undergoing medical ailments are concerned, the regulation governing a transfer does not provide for such grounds for transfer and that such a decision is purely at the discretion of the second respondent.

5. The learned counsel for the petitioner would submit that pursuant to the transfer, the petitioner had also given a representation dated 03.02.2020 ventilating his inconveniences. This Court is of the view that if the said representation is directed to be disposed of within the stipulated time, the ends of justice could be secured.

6. In the light of the above observations, I do not find any merits in the present writ petition and accordingly, the Writ Petition stands dismissed. However, the second respondent shall sympathetically consider the petitioner's representation dated 03.02.2020, on its own merits and pass appropriate orders as expeditiously as possible. It is made clear that this Court has not expressed any of its view with regard to the claim made by the petitioner in his representation and it is for the second respondent to consider it in accordance with law. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (writs)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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To

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Adi Dravidar and Tribal Welfare Department,
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+1 CC to M/s.R.VIJAYAKUMAR, Advocate (SR-6707[F] dated 17/02/2020)

+1 CC to M/s.SPL.GP (SR-7057[F] dated 19/02/2020)

W.P. (MD) No.2531 of 2020
17.02.2020

KB(17/03/2020) 3P 6C