



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

W.P No.7360 of 2021

E.Meera

... Petitioner

Vs.

1.The Chairperson,
Central Board of Secondary Education (CBSE)
'Shiksha Kendra'
2, Community Centre,
Preet Vihar,
New Delhi - 110 092.

2.The Joint Secretary,
Central Board of Secondary Education (CBSE)
Regional Office - Chennai,
Plot No.1630A, 'J' Block,
15th Main Road, Anna Nagar West,
Chennai - 600 040.

3.The Principal,
Padmashree School,
Vanasakthi Nagar,
Kolathur,
Chennai - 600 099.

4.Mr.V.Venkatesh

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, directing the 3rd respondent to issue Transfer Certificate of the petitioner's daughter minor.V.Tharshita to the petitioner.

For Petitioner : Mr.S.Elumalai
for Arulselvam Associates

For Respondents : Mr.G.Nagarajan
Central Government Standing Counsel
for R1 & R2
Mr.B.Ganesha Moorthy for R3



ORDER

This writ petition has been filed for the issue of writ of mandamus directing the 3rd respondent School to issue Transfer Certificate to the petitioner's daughter.

2.The case of the petitioner is that she was married to 4th respondent and out of the said wedlock, they had a daughter named V.Tharshita. There was some misunderstanding which started in the year 2012 and the daughter was caught in between the fight between the petitioner and the 4th respondent. Ultimately, the matter reached this Court in HCP No.1293 of 2018 and this Court made an interim arrangement and directed the parties to approach the competent court and workout their remedy insofar as the custody rights of the minor daughter is concerned.

3.Accordingly, the petitioner as well as the 4th respondent filed GWOP petition before the Family Court, Chennai and it is stated that the same is pending without any final adjudication.

4.The daughter of the petitioner was studying in the 3rd respondent School up to the academic year 2019-2020 where she completed her 5th standard and was promoted to the 6th standard. At that point of time, the daughter is said to be under the custody of the petitioner and the petitioner also got transferred to Salem and she took her daughter along with her to Salem. It is stated at Paragraph No.6 of the affidavit filed in support of the writ petition that the daughter of the petitioner was admitted to Jairam Public School at Salem in the 6th standard and she is now attending on-line classes.

5.The petitioner approached the 3rd respondent School and sought for the Transfer Certificate. The 3rd respondent School refused to issue Transfer Certificate on the ground that the child is in the joint custody of the petitioner and the 4th respondent and already objections have been given by the 4th respondent not to issue any Transfer Certificate. It is under these circumstances, the present writ petition has been filed before this Court seeking for appropriate directions.

6.Heard the learned counsel for the petitioner and the learned counsel appearing on behalf of the respondents.

7.In the considered view of this Court, the child is now in the custody of the petitioner and as per the averments made in the affidavit, the child is now studying in a School at Salem. That apart, the GWOP petition filed by the petitioner and the 4th respondent is pending before the Family Court. For the present, this Court is not concerned about the inter se rights of the



petitioner and the 4th respondent who are seeking for the custody of the child and that is an issue which will be decided by the Family Court. The welfare of the child has to be taken into consideration and it is very important that the education undergone by the child should not be affected under any circumstances. The child is now studying in a School at Salem and hence, the Transfer Certificate becomes very essential in order to submit the same before the concerned School. Due to the pandemic situation, the Schools are not very strict in insisting for the Transfer Certificate. That does not mean that the same situation will continue and at some point of time, the present School where the petitioner's daughter is studying will insist for the Transfer Certificate.

8. Taking into consideration the facts and circumstances of the case and also considering the welfare of the child, this Court is inclined to issue a direction to the 3rd respondent to issue the Transfer Certificate to the petitioner's daughter. By merely issuing a Transfer Certificate, the same does not in any way impact the rights of the petitioner or the 4th respondent who are claiming the custody of the child. Even, the orders passed in this writ petition will not have any bearing when the Family Court decides the petitions filed by the petitioner and the 4th respondent seeking for the custody of the child. Those petitions will be dealt with on its own merits and in accordance with law. The directions issued in this writ petition only confines itself to the welfare of the child, whose education should not in any way be affected in any manner.

9. In view of the above, there shall be a direction to the 3rd respondent to issue the Transfer Certificate to the petitioner's daughter, within a period of one week from the date of receipt of copy of this order.

10. This writ petition is disposed of with the above directions. No Costs.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

ssr

To

1. The Chairperson,
Central Board of Secondary Education (CBSE)
'Shiksha Kendra'
2, Community Centre,
Preet Vihar, New Delhi - 110 092.



2.The Joint Secretary,
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3.The Principal,
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Vanasakthi Nagar, Kolathur,
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+1cc to M/S.Arulselvam Associates, Advocate, SR.No.40902

W.P No.7360 of 2021

CP(CO)
PM(09/09/2021)