





on the file of this Court.

**PRAYER IN W.M.P.(MD)No. 14711 of 2020 in W.P.(MD) No.13465 of 2020**

This Petition filed under Article 226 of Constitution of India to extend the time for a period of three months i.e., from 27.11.2020 to comply with the orders of this Court in W.P.(MD). No.13465 of 2020 dated 05.10.2020

**Prayer in WP(MD) . 13465/ 2020 :**

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Mandamus or any other writ or order or direction in the nature of Writ forbearing the 4th respondent herein from surveying the petitioner's property in TS.No.62 and Survey No.66/7 in Patta No.R.T.R.676(a) 94-95 dt.23.12.1994 at Ponmeni Village, Bye Pass Road, Madurai by adverting to the orders passed by the 1st respondent herein vide proceedings in Na.Ka.NO.5609/2012/C dt.31.12.2015.

For Appellant : Mr.B.Saravanan  
for C.Jeganathan

For Respondents 1 to 4 : Mr.R.Baskaran,  
Standing Counsel for Government

**J U D G M E N T**

[Judgment of the Court was delivered by **T.S.SIVAGNANAM, J.**]

This appeal is directed against the order, dated 04.12.2020 passed in W.M.P.(MD)No. 14711 of 2020 in W.P.(MD) No.13465 of 2020.

2.Heard Mr.P.Saravanan, learned counsel for Mr.C.Jeganadhan, learned counsel for the petitioner and Mr.R.Baskaran, learned Standing Counsel for Government appearing for the respondents 1 to 4.

3.Since the scope of the appeal, which has been filed by the petitioner herein, would have no impact on the rights and contentions of the respondents 5 & 6, notice to the respondents 5 & 6 is dispensed with.

4.The petitioner Union is registered under the provisions of the Tamil Nadu Societies Registration Act, 1975, bearing Registration No.98 of 1981 approved by the Government of Tamil Nadu vide G.O.Ms.No.896, Personnel and Administrative Reforms (Personnel.K) Department, dated 26.08.1981. The members of the petitioner-Society are all Surveyors working in various Districts in the State of Tamil Nadu.



5. The petitioner Association is aggrieved by the direction issued by the learned Single Bench of this Court in W.M.P(MD). Nos.14711 of 2020 in W.P(MD).No.13465 of 2020 dated 04.12.2020.

6.The said Writ Petition was filed by the fifth respondent herein and the prayer sought for was to forbear the official respondents from surveying his property, by adverting to the orders passed by the Revenue Divisional Officer, dated 31.12.2015. The said Writ Petition was disposed of by order, dated 05.10.2020, directing the Tahsildar, Madurai West Taluk, to depute a devoted and honest Surveyor for surveying the property in question in the presence of both parties and send a report to the authorities concerned. The entire exercise was directed to be done within the time frame. Thus, the fifth respondent/writ petitioner appears to be fully satisfied with the direction issued in the writ petition. The learned Writ Court, thereafter proceeded to draw certain guidelines, which have to be followed in respect of survey of the properties.

7. We note that the Writ Petition was not a Public Interest Litigation, but filed by an individual concerning his property rights. Nevertheless, the learned Writ Court took upon itself, the responsibility of framing guidelines in order to ensure that the Survey Department in the State functions with utmost devotion to work and integrity. In the said order, other directions were issued to the Government and there is also a specific direction to issue a circular. The Additional Chief Secretary to the Government Revenue and Disaster Management Department, Chennai, filed a Miscellaneous Petition in W.M.P(MD).No.14711 of 2020, seeking extension of time, by a period of three months to enable the Government to examine and issue a circular. In this petition, the learned Single Bench has passed the order, dated 04.12.2020. In the said order, the learned Single Bench has extracted a covering letter given by the department to the learned Additional Advocate General, dated 28.10.2020 and after noting the same, the time was extended for compliance of the earlier direction till first week of June, 2020. Thereafter, the learned Single Bench proceeded to pass an order concerning the transfer of the Surveyors in the State of Tamil Nadu. The direction is to the following effect.

"The Government is expected to ensure that same surveyor is not retained in one particular place / area for more than two years to avoid vested interest created. Quoting this order, all the surveyors may be intimated that the period is only limited. But, it can be extended, and, in any event, even on medical grounds, total period shall not exceed three years. This will enable them to not to leave during the middle of the academic year."

8.The petitioner is aggrieved by the said direction. It is pointed out by Mr.P.Saravanan, learned counsel for the petitioner



that this direction supersedes the Government Order in G.O.Ms.No.10, Personnel and Administrative Reforms Department, dated 07.01.1994, which was sent for the approval of the Governor. The said Government Order reads as follows :

**G.O. Ms. No. 10, dated 7th January 1994**

Public Services—Transfer of Government servants from one station/post to another—Once in three years—Revised instructions—Issued.

READ—the following papers :—

1. G.O. Ms. No. 508, Public (Services) Department, dated 9th March 1970.
2. G.O. Ms. No. 704, Personnel and Administrative Reforms (Per.S) Department, dated 19th June 1978.
3. G.O. Ms. No. 288, Personnel and Administrative Reforms (Per.S) Department, dated 15th June 1990.

Order No— 10, Personnel and Administrative Reforms (Per. S) Department, dated 7th January 1994.

In the G.O.s read above, as modified/amplified subsequently, the Government have issued detailed instructions that the Government servants are generally to be transferred from one place to another only after completion of three years of service in the same station/post and that for transferring such officers from one station/post to another station/post before completing the period of three years in the same station/post, orders of Government should be obtained. Certain exemptions were, however, allowed later.

2. Some of the transfers made by the competent authorities were challenged by the aggrieved Government servants by filing Original Applications in the Tamil Nadu Administrative Tribunal. Some of the Employees' Associations have also requested for rationalising the transfer policy.

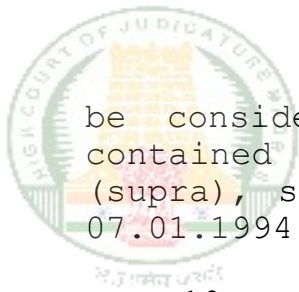
3. Considering the various aspects of the various problem, the Government have decided to lay down a new transfer policy. They accordingly direct that in supersession of earlier orders, the procedures laid down in Annexure I to this order shall be followed strictly by all transferring authorities while making transfers of Government servants in Groups A, B and C.

4. The procedures shall be followed for effecting transfers from 1st April 1994 and in subsequent years and any violation will be viewed seriously by the Government and severe disciplinary action taken against the erring officials.

(By order of the Governor)

T. V. VENKATARAMAN,  
Chief Secretary to Government.

9. It appears that G.O.Ms.No.10 dated 07.01.1994 still holds the field. In fact, in the Judicial Department in respect of the Hon'ble Judges of the District Judiciary, the transfer once in three years is not strictly followed, subject to the course of exigencies, which will



be considered by the High Court. We find that the direction contained in the paragraph No.4 of the order, dated 04.12.2020 (supra), set at naught the Government Order in G.O.Ms.No.10, dated 07.01.1994.

10. In our considered view, the lis before the learned Writ Court was at the instance of the private party concerning survey of his property. Thus, *prima facie* we are of the view, that in such a matter, the Court may not be justified in going beyond the scope of the prayer sought for and issuing direction, especially when the Writ Petition was not a Public Interest Litigation and the case was not heard by the Hon'ble Division Bench, to which Public Interest Litigations are assigned by the Hon'ble Chief Justice.

11. That apart, a direction contained in paragraph No.4 supra, is an en-route to the administrative affairs of the Government. Therefore, we are of the view, that such a direction could not have been issued. It is one thing to say if the Government themselves review the policy and adopt the new policy that may be a different matter. But, as a Writ Court, dealing with a case concerning the interest of the private individual, qua his property such direction could not have been issued. Unfortunately, the Commissioner of Survey and Settlement also appears to have not been appraised of this legal position and proceeded to hurriedly issue a circular in R.C.M2/404/2021 dated 08.06.2021. This in our view, cannot be sustained on account of our finding that the direction contained in paragraph No.4 of the order, dated 04.12.2020, was clearly beyond the scope of the Writ Petition.

12. For the above reason, the Writ Appeal is allowed, the order and direction issued in paragraph 4 of the order, dated 04.12.2020 in W.M.P.(MD).No.14711 of 2020 in W.P(MD).No.13465 of 2020, are set aside and consequently, the proceedings of the Commissioner of Survey and Settlement, Chennai in R.C.No.M2/404/2001 (S.Y), dated 08.06.2021, is set aside and the Commissioner of Survey and Settlement is directed to issue a circular stating that the transfers and postings shall be governed by the G.O.Ms.No.10, dated 07.01.1994, till the Government takes any new fresh decision and passes fresh Government order. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



Note In view of the present lock down owing to COVID-19 pandemic, a  
: web copy of the order may be utilized for official purposes,  
but, ensuring that the copy of the order that is presented is  
the correct copy, shall be the responsibility of the  
advocate/litigant concerned.

**WEB COPY**

- To
- 1.The Revenue Divisional Officer,  
O/o The Revenue Divisional Office  
Madurai,  
Madurai District.
  - 2.The Thasildar  
Madurai West Taluk,  
Madurai,  
Madurai District.
  - 3.The Town Surveyor  
Madurai West Circle,  
Collectorate,  
Madurai.
  - 4.The Village Administrative Officer,  
Ponmeni Village,  
Madurai Town and District.

**W.A. (MD) .No.1457 of 2021**  
**16.07.2021**

MGJ(04.08.2021) 6P 5C