



WEB COPY



W.P.No.12196 of 2016

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.11.2022

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

W.P.No.12196 of 2016

and

W.M.P.Nos.10547, 10548 of 2018 & 29612 of 2021

R.Parvathi

... Petitioner

Vs.

1.The Principal Secretary to Government
Education Department, Fort St. George,
Chennai – 9.

2.The Director of School Education,
College Road, Chennai – 6.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus, calling for the records of the 1st respondent in its Na.Ka.No.43615/W3/ E2/2014 dated 22.06.2015 and quash the same and consequently direct the respondents to transfer the petitioner's services as PG Assistant (History) from St. Coloumbian Higher Secondary School, Chennai to any other Government or aided school in Tamilnadu.

For Petitioner

: Mr.V.Jayaprakash Narayanan

For R1 and R2

: Mrs.S.Mythreye Chandru
Special Government Pleader



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ORDER

The order impugned passed by the 1st respondent rejecting the claim of the writ petitioner to post in any other School byway of transfer of service is under challenge in the present writ petition.

2. It is not in dispute that the petitioner was appointed as a PG Assistant (History) in St. Coloumbian Higher Secondary School, which is an Anglo Indian Minority School in Chennai. The appointment of the writ petitioner was approved by the Education Department.

3. The learned counsel for the petitioner made a submission that the petitioner was already treated as surplus and therefore, she must be accommodated in any other school by the competent authorities. It is contended that the post of the PG Assistant (History) itself was treated as surplus and therefore, the petitioner, who is an incumbent is to be transferred.

4. Declaration of a post as surplus or transferring a teacher to another post is an administrative affair of the Department. Neither the teacher nor



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the Court can interfere with such administrative affairs in a routine manner.

Only if the decisions of the authorities are tainted with allegation of *mala fides* or in violation of Rules, then alone the power of judicial reviews can be exercised by the High Court under Article 226 of the Constitution of India.

5. The learned Special Government Pleader made a submission that St. Coloumbian Higher Secondary School is a minority institution and receiving partial grant in aid from the Government. Therefore, a teacher cannot seek any transfer of service from the said School to any other School. There is no Rule to give transfer to the petitioner by way of transfer of service and thus, the claim of writ petitioner was rejected.

6. It is contended that the post of PG Assistant (History) was declared as surplus by the competent authorities of the Educational Department. However, the management has not provided any information to the Educational Department.

7. The learned counsel for the petitioner states that the Government



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funds are misused by the Management of St. Coloumbian Higher Secondary School. In this regard, the competent authorities are bound to conduct an enquiry and find out, whether the post of PG Assistant (History) was declared as surplus, then appropriate actions are to be initiated by the competent authorities in accordance with the guidelines issued in this regard. If the funds of the Government are misused, then further actions are required in accordance with law. However, this Court cannot issue any direction to transfer the petitioner to any other School and if an administrative exigency requires such transfer or otherwise that is to be ascertained by the competent authorities of the Education Department and all appropriate actions are to be taken by following the procedures as contemplated.

8. With these observations, the Writ Petition stands disposed of. No costs. Consequently, connected Miscellaneous Petitions are closed.

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Jeni
Index : Yes
Speaking order

To

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S.M.SUBRAMANIAM, J.

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