



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.04.2022

CORAM:

THE HON'BLE MR. JUSTICE D.KRISHNAKUMAR

W.P.Nos.1258, 1264, 1272, 2357, 3573 and 11560 of 2022
and

W.M.P.Nos. 1364, 1371, 1384, 2513, 2515, 3546, 3547,
3548, 3707, 10840 and 11046 of 2022

1.G.Thirupathi
2.M.Manjula
3.L.Barathi
4.V.Manikkam
5.J.Vasanthakumari ...Petitioners in WP.No.1258/2022

1.M.Punniyamoorthy
2.K.Selvarani
3.K. Sunimol Manuel ...Petitioners in WP.No.1264/2022

1.K.Giriraju Rao
2.A.Tamilselvi
3.A.Selvarani
4.V.Arumugam
5.B.Vimala
6.B.Pushparani ...Petitioners in WP.No.1272/2022

1.P.Babu Purushothaman
2.K.Ravi Krishnan
...Petitioners in WP.Nos.2357 & 11560/2022

G.Thirupathi ...Petitioner in WP.No.3573/2022

vs.

1. State of Tamil Nadu,
Rep. by its Principal Secretary to Government,
School Education Department,
Fort St.George, Secretariat,
Chennai 600 009.

2. The Commissioner of School Education,
DPI Campus, College Road,
Chennai 600 006.

3. The Director of Elementary Education,
DPI Campus, College Road,
Chennai 600 006.



4. The Chief Educational Officer,
Tirupattur District,
Tirupattur.

5. The District Educational Officer,
Tirupattur Education District,
Tirupattur District.

6. The Block Educational Officer,
Tirupattur Union,
Tirupattur District.

...Respondents in WP.Nos.1258,1264,1272, 3573/2022

1. Government of Tamil Nadu
Rep. by its Secretary,
Department of School Education,
Fort St. George Chennai-600 009.

2. The Director of Elementary Education,
DPI Campus, College Road,
Chennai - 600 006.

3. The District Educational Officer,
Erode.

4. The Block Educational Officer
Sathyamangalam Block, Erode District.

...Respondents in WP.Nos.2357 & 11560/2022

Common Prayer in WP.Nos.1258, 1264, 1272/2022 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the impugned communication issued by the 3rd respondent in Na.Ka.No.756/D1/2021 dated 11.01.2022 and the consequential Notice issued by the 6th respondent in No. Nil dated 21.01.2022 and to quash the same and consequently directing the respondents to conduct transfer and posting counseling in respect of Tirupattur Union, Tirupattur District in accordance with regulations framed in G.O. Ms. No. 176, School Education Department dated 17.12.2021, without reference to compulsory hill rotation transfer.

Prayer in W.P.No.2357/2022 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the second respondent in proceedings Na.Ka. No.756/T1/ 2021 dated 11.01.2022 and quash the same as being against G.O.Ms. No.176 dated 17.12.2021 which had specifically withdrawn the hilly rotation Government Order in G.O. Ms.No.404 dated 25.05.1995 and consequently direct the respondents to permit the petitioners to continue in their present station.



Prayer in W.P.No.3573/2022 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorari to call for the records relating to the impugned Government Order in G.O.Ms.No. 12 of School Education (SE5(1)) Department dated 03.02.2022 issued by the 1st Respondent and to quash the same.

Prayer in W.P.No.11560/2022 : Writ Petition is filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, calling for the records of the first Respondent in impugned Government order in G.O. Ms. No. 12 school Education (SE5 (1) department dated 03.02.2022 and quash the same so far as the petitioners are concerned on the ground of arbitrariness and violative of Article 14 of the Constitution of india and consequently direct the Respondents to permit the petitioners to continue in their present station.

For Petitioners : Mr.G.Sankaran
(in W.P.Nos.1258,1264,1272 and 3573/2022)

: Mrs.Dakshayani Reddy
(in W.P.Nos.2357 and 11560 of 2022)

For Respondents : Mr.R.Shanmugasundaram
Advocate General
and Mr.R.Neelakandan
Additional Advocate General
assisted by Mrs.S.Anitha
Special Government Pleader
(in all WPs)

C O M M O N O R D E R

These writ petitions have been filed challenging the communication in Na.Ka.No.756/D1/2021, dated 11.01.2022 issued by the third respondent and also subsequent Government Order in G.O.(Ms) No.12, School Education [(SE5(1)] Department, dated 03.02.2022.

2. According to the learned counsel appearing for the petitioner in W.P.No.11560 of 2022, the petitioner has challenged the said Government Order. Therefore, even though that writ petition was not listed before this Court, the same order has to be passed in the said writ petition.

3. Mr.G.Sankaran, learned counsel appearing for the petitioners in W.P.Nos.1258, 1264, 1272 and 3573 of 2022 submitted that the petitioners have already challenged the said communication issued by the third respondent subsequent to the Government Order in G.O.(Ms) No.176, School Education [(SE5(1)] Department, dated 17.12.2021.



4. All these writ petitions are taken up for final hearing before this Court.

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5. After elaborate arguments, the learned counsel appearing for the petitioners has stated that earlier the Government has passed G.O.Ms.No.404, Education, Science and Technology (S2) Department, dated 25.05.1995, wherein the Government has framed certain guidelines for transferring the secondary grade teachers, who were working in Panchayat Unions had been transferred to the hill areas.

6. According to the learned counsel appearing for the petitioners, the aforesaid Government Order in G.O.Ms.No.404, Education, Science and Technology (S2) Department, dated 25.05.1995 has subsequently superseded and the Government has framed new transfer policy in G.O.(Ms) No.176, School Education [(SE5(1)) Department, dated 17.12.2021, by which the transfers and posting of teachers working in Government/ Panchayat Union/Municipal Primary/Middle Schools, regulated for the academic year 2021-2022.

7. According to the learned counsel appearing for the petitioners, in the State of Tamil Nadu, there are certain Panchayat Unions where hill station schools are located. Accordingly, the State Government issued orders, where hill station schools are located, the Secondary Grade Teachers, irrespective of male or female teachers, who were working in the Panchayat Unions, should be transferred and posted to hill area schools, according to the juniority and to work for a minimum period of one year.

8. Subsequently, based on the report of the Director of Elementary Education, the Government has issued G.O.(Ms) No.176, School Education [(SE5(1)) Department, dated 17.12.2021 in supersession of the earlier Government Orders including G.O.Ms.No.404, Education, Science and Technology (S2) Department, dated 25.05.1995. Subsequently, the Director of Elementary Education has issued the impugned communication in Na.Ka.No.756/D1/2021, dated 11.01.2022. The said communication has been challenged before this Court in these writ petitions on the ground that the said communication cannot be over ruled by the Government Order and therefore, the Director of Elementary Education has no authority to pass such an order for amending the Government Order. When these writ petitions are pending, the Government has passed an order by amending G.O.(Ms) No.12, School Education [(SE5(1)) Department, dated 03.02.2022.

9. According to the learned counsel appearing for the petitioners, subsequently, the amended Government Order has been passed by the Government without taking note of the earlier report submitted by the Director of Elementary



Education, to get over the earlier proceedings issued by the State Government and therefore, the same is unsustainable in law.

10. The learned Advocate General appearing for the respondents, on instructions, would fairly states that the Government will reconsider the aforesaid impugned Government Order in G.O.(Ms) No.12, School Education [SE5(1)] Department, dated 03.02.2022 and frame fresh comprehensive guidelines to the Secondary Grade Teachers, who are transferred to Hill Stations, after considering fresh report of the Director of Elementary Education. Therefore, he seeks liberty to consider the matter afresh and pass appropriate orders.

11. At this stage, the impleading petitioner / Parent Teachers Association has specifically made a request that till such decision is taken, the Teachers should not be transferred to Hill Stations on administrative grounds. This Court is not inclined to accept the said submission of the impleading petitioner and such request is rejected. It is open to the respondents to take appropriate decision.

12. In view of the above submission made by the learned Advocate General, no further adjudication is required and the writ petitions are disposed of giving liberty to the respondents as prayed for. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

dm

To

1. The Principal Secretary to Government,
School Education Department,
Fort St. George, Secretariat,
Chennai 600 009.
2. The Commissioner of School Education,
DPI Campus, College Road,
Chennai 600 006.
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DPI Campus, College Road,
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Tirupattur District,
Tirupattur.



5. The District Educational Officer,
Tirupattur Education District,
Tirupattur District.

6. The Block Educational Officer,
Tirupattur Union,
Tirupattur District.

7. The Secretary,
Department of School Education,
Fort St. George, Chennai-600 009.

8. The District Educational Officer,
Erode.

9. The Block Educational Officer
Sathyamangalam Block, Erode District.

+lcc to Government Pleader SR. No. 30910

+lcc to Mr.G.Sankaran, Advocate SR. No. 30282

W.P.Nos.1258, 1264, 1272, 2357,
3573 and 11560 of 2022 and
W.M.P.Nos. 1364, 1371, 1384, 2513, 2515, 3546,
3547, 3548, 3707, 10840 and 11046 of 2022

SSD (CO)
PR (30/06/2022)