



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.06.2022

CORAM

THE HON'BLE MR. JUSTICE PARESH UPADHYAY
AND
THE HON'BLE MRS. JUSTICE V. BHAVANI SUBBAROYAN

W.A.NO.1440 OF 2022
& C.M.P.NO.9307 OF 2022

K.Sathiyamurthy

.. Appellant

Vs

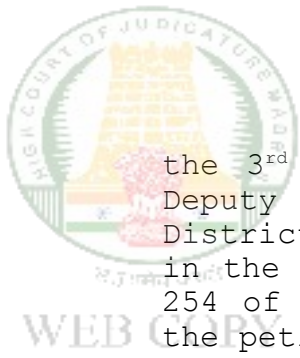
1. The Secretary to Government,
The Department of School Education,
Fort St. George, Chennai.
2. The Commissioner of School Education,
O/o Commissioner of School Education,
Nungambakkam, Chennai.
3. The Joint Director of School Education (Personnel)
O/o Joint Director of School Education,
Chennai-600 006.
4. The Chief Education Officer,
O/o Chief Educational Officer,
Kanchipuram District,
Kanchipuram.
5. The District Education Officer,
O/o District Educational Officer,
Sriperumbudhur, Kanchipuram District.

.. Respondents

Appeal preferred under Clause 15 of Letters Patent against the order dated 18.05.2022 made in W.P.No.12921 of 2022.

Prayer in W.P.No.12921 of 2022:

Petition filed under Article 226 of the Constitution of India praying this Hon'ble Court to issue a Writ of Mandamus calling for the records in Na.Ka.No. 69836/C2/E1/ 2021 dated 10.03.2022 on the file of the 3rd respondent and consequential order passed by 5th respondent in Na.Ka.No. 1150/A1 /2022 dated 30.03.2022 and quash the same as illegal arbitrary and direct



the 3rd respondent to issue posting order to the petitioner as Deputy Inspector of School in vacant post in the office of District Education officer Chennai (North) or any other place in the light of judgement of this Honble Court in W.A. (MD) No. 254 of 2022 dated 25.03.2022 and based on the representation of the petitioner dated 09.04.2022, 22.04.2022 and 29.04.2022.

For Appellant : Dr.A.Thiyagarajan, Senior Counsel
for Mr.S.Aravind Raj

For respondents: Mr.M.S.Arasakumar,
Government Advocate

JUDGMENT

(Made by PARESH UPADHYAY, J.)

1. Challenge in this appeal is made to the order dated 18.05.2022 recorded on W.P.No.12921 of 2022. This appeal is by the writ petitioner.

2. Learned Senior Counsel for writ petitioner/ appellant has submitted that the order impugned in the writ petition dated 10.03.2022 was passed on the basis of the general instruction given by the Joint Director of Tamil Nadu School Education, Chennai dated 06.01.2022 which was already held to be illegal by the Division Bench of this Court (Madurai Bench) vide judgment dated 25.03.2022 recorded on W.A.(MD) Nos.254 and 255 of 2022, a copy of which is on record and as stated, was also on record of the writ petition. It is submitted that the case of the petitioner is squarely covered by the said judgment, and the relief as prayed for ought to have been granted. It is submitted that the order of the learned single Judge and the order impugned in the writ petition be quashed and set aside.

3. Learned Government Advocate for the respondents/ State Authorities has submitted that the action of the State Authorities was merely administrative in nature and generally, transfer orders are not interfered by the Court, which the learned single Judge has rightly not interfered. It is submitted that no interference be made by this Court and this appeal be dismissed.

4. Having heard learned advocates for the respective parties and having considered the material on record this Court finds as under:-



4.1 By the order dated 10.03.2022 (which was impugned in writ petition), the petitioner was transferred from the post of 'Deputy Inspector of School' to 'Graduate Teacher (Tamil)'. The said order itself refers to the instruction to do so at No.3 being instruction dated 06.01.2022. Though this Court accepts the contention on behalf of the State that generally transfer orders are not interfered with, the question is about the permissibility thereof from one cadre to another and applicability of the order of the Division Bench of this Court which had binding force while writ petition was considered.

4.2 Having examined the matter from that angle, we find that the general instruction of the authorities dated 06.01.2022 itself was interfered with and set aside by the Division Bench of this Court (Madurai Bench) in W.A.Nos.254 and 255 of 2022 vide order dated 25.03.2022. Once that order is kept in view which holds the field, the order impugned in the writ petition was required to be interfered with by setting aside the same.

4.3 We also find that, though there was specific reference to the above referred order of the Division Bench of this Court, in the writ petition and even specific reference is also made in the prayer clause as well, in the entire order we do not find even a reference to the order of the Division Bench. Decorum demands that we do not observe anything further about judicial discipline.

4.4 In totality, following the above referred decision of the Division Bench of this Court, the order impugned in the writ petition needs to be set aside.

5. In view of above, the following order is passed.

5.1 This writ appeal is allowed. The order dated 18.05.2022 recorded on W.P.No.12921 of 2022 is quashed and set aside.

5.2 Writ petition is allowed. The order impugned in the writ petition (dated 10.03.2022) is set aside. No costs. C.M.P.No.9307 of 2022 is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

raa/3



To

1. The Secretary to Government,
The Department of School Education,
Fort St. George, Chennai.
2. The Commissioner of School Education,
O/o Commissioner of School Education,
Nungambakkam, Chennai.
3. The Joint Director of School Education (Personnel)
O/o Joint Director of School Education,
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4. The Chief Education Officer,
O/o Chief Educational Officer,
Kanchipuram District,
Kanchipuram.
5. The District Education Officer,
O/o District Educational Officer,
Sriperumbudhur, Kanchipuram District.

+lcc to Mr.S.Ramesh Kumar, Advocate, S.R.No.35794
+lcc to the Government Pleader, S.R.No.36939

W.A.No.1440 of 2022

SV(CO)
PM/30/06/2022