



WEB COPY

W.A(MD)No. 312 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 05.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE PARESH UPADHYAY

and

THE HONOURABLE MR.JUSTICE R.VIJAYAKUMAR

W.A(MD)No. 312 of 2022
and C.M.P.(MD) No. 3058 of 2022

Dr.A.Femila

.. Appellant/ Writ Petitioner
Vs

1.The Director of Public Health and
Preventive Medicine,
Chennai - 600 009.

2.The Deputy Director of Health Services,
Nagercoil - 629 001,
Kanyakumari District.

3.Dr.Bosco Raja, M.B.B.S., D.Ph.,
The Deputy Director of Health Services,
Nagercoil - 629 001,
Kanyakumari District.

.. Respondents

Writ Appeal filed under Clause 15 of the Letters Patent
against the order dated 01.03.2022 made in W.P.(MD) No. 18203 of
2022.

Prayer in WP(MD) . 18203/ 2020 :

Writ Petition is filed under Article 226 of the
Constitution of India, praying this Court S-3. To issue a writ of
Certiorari, calling for the records related to the impugned
proceedings of the 1st respondent - Director of Public Health and
Preventive Medicine, Chennai dated 20.10.2020 in R.No.
79879/E5/A1/2020 and quash the same.

For Appellant : Ms.L.Victoria Gowri
For Respondents : Mr.J.Ashok,
Additional Government Pleader
for R1 & R2

JUDGMENT

[Delivered by PARESH UPADHYAY, J.]

Challenge in this petition is made to the order dated
01 March 2022 recorded on W.P(MD) No.18203 of 2020. This appeal is
by the writ petitioner.



2. Ms.L.Victoria Gowri, learned advocate for appellant / writ petitioner has submitted that, the order impugned in the writ petition was a punitive transfer and the petitioner was not heard before passing such an order and therefore learned Single Judge ought to have allowed the petition, more particularly keeping in view the fact that, according to her the said transfer order was already stayed initially. It is submitted that this appeal be entertained.

3. On the other hand, Mr.J.Ashok, learned Additional Government Pleader has submitted that the petitioner is a Doctor. She was transferred by the order dated 20 October 2020, (Covid period), to meet with the exigencies faced by the nation on the whole and therefore no interference should have been made in the writ petition and learned Single Judge has rightly dismissed the writ petition and therefore this appeal be dismissed.

4. Having heard learned advocates for the respective parties and having considered the material on record, this Court finds that the petitioner is a Doctor. The State of Tamil Nadu, Health Department is the appointing authority for her. By the impugned order, the petitioner was transferred from one place to another place and that order was passed by the Director of Public Health and Preventive Medicine of Tamil Nadu State. The stand of the respondents is that, the said order was on administrative ground. The transfer order also refers to the same. We find that, in these facts no relief could have been granted under Article 226 of the Constitution of India. Learned Single Judge has refused to exercise his discretion. Refusal to exercise the said discretion, in these facts, according to us, can not be said to be any error much less any error apparent on the face of record, which may call for any interference in an intra-court appeal under Clause 15 of Letters Patent. For these reasons, this appeal needs to be dismissed.

5. For the above reason, this appeal is dismissed. No costs. Consequently, connected miscellaneous petition would not survive.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To:-

1.The Director of Public Health and
Preventive Medicine,

<https://hcservices.hcscourt.gov.in/hcser/009>



2.The Deputy Director of Health Services,
Nagercoil - 629 001,
Kanyakumari District.

+1 CC to M/s.L. VICTORIA GOWRI, Advocate (SR-17058[F] dated
07/04/2022)

W.A (MD) No.312 of 2022
05.04.2022

RD(12.04.2022) 3P 4C