



WEB COPY



W.P(MD).No.9763 of 2022

IN THE HIGH COURT OF JUDICATURE OF MADRAS

DATED: 01.07.2022

CORAM:

THE HONOURABLE MR. JUSTICE M.S. RAMESH

W.P(MD).No.9763 of 2022

W.M.P(MD).Nos.6991 and 6994 of 2022

K.Jothimani

...Petitioner

Vs.

1.The Commissioner,
Adi Dravidar Welfare Department,
Chepauk,
Chennai.

2.The District Collector,
Theni District.

3.The District Adi Dravidar and Tribal Welfare Officer,
Theni District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, calling for the entire records pertaining to the impugned order passed by the third respondent in Na.Ka.No.44977/2021/Aathi2 dated 04.05.2022 and quash the same and consequently direct the respondents to permit the petitioner to continue as Matron in Government Adi Dravidar Welfare Girls Hostel, Bodinaickanur, Theni District.



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For Petitioner : Mr.R.Anand

For Respondents : Mr.G.Suriyananth
Additional Government Pleader

ORDER

The petitioner herein has been transferred from Government Adi Dravidar Welfare Girls Hostel, Bodinaickanur, Theni District to the Government Adi-Dravidar Welfare Girls Hostel, Ammachiyapuram, Theni District, through the impugned order of transfer, dated 04.05.2022. The order of transfer seems to be punitive in nature. Imputations of *mala fide* in a transfer order cannot be made, in view of various decisions of the Hon'ble Supreme Court, including the case of ***Somesh Tiwari vs. Union of India and others*** reported in ***(2009) 2 SCC 592***.

2. In normal circumstances, I would have interfered with such a punitive transfer. However, in the instant case, the petitioner has been relieved on the date of transfer itself and on the next day (i.e.,) 05.05.2022, one Vijayalakshmi has joined the place of the petitioner, where she continues to work for over one month. In this background, it would not be appropriate to interfere with the transfer order and disturb the services of the incumbent, more particularly, when she is not given an



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opportunity of being heard.

3. However, since the transfer order has been made on punitive grounds, it would be appropriate to grant liberty to the petitioner to seek for further transfer of his choice to the respondents, with a consequential direction to consider his case.

4. In the light of the above findings, no interference is required to the impugned order. However, the petitioner is granted liberty to make a representation to the first respondent, seeking for re-transfer to any other place of his choice and on receipt of such a representation, the first respondent herein shall consider the same and pass appropriate orders, within a period of two weeks from the date of receipt of a copy of the representation.

5. The Writ Petition stands disposed of accordingly. No costs. Connected miscellaneous petitions are closed.

01.07.2022

Index: Yes/No

Speaking order/Non-speaking order

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To

- 1.The Commissioner,
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M.S.RAMESH,J.

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