



W.P(MD)No.17530 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 02.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

WP (MD) No.17530 of 2021

and

WMP (MD) Nos.14367, 14368 and 15344 of 2021

D.Jancy

...Petitioner

Vs.

- 1.The District Educational Officer,
District Educational Office,
Pudukottai District.
 - 2.The Block Educational Officer,
Block Educational Office,
Viralimalai,
Pudukottai District.
 - 3.The Roman Catholic Diocese,
Rep through Superintendent of Schools,
Sacred Heart Higher Secondary School,
Ponmalaipatti, Trichy.
 - 4.The Congregation of the Sisters of St.Anne,
Represented by its Mother General,
12A, Pushpa Colony, Crawford,
Tiruchirappalli - 620 012.
 - 5.The RC Primary School,
Represented by its Correspondent,
Aavoor,
Pudukottai.
 - 6.The St. Joseph RC Primary School,
Represented through its Correspondent,
Palakurichy, Trichy.
- ...Respondents



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PRAYER: Writ Petition filed under Article 226 of the Constitution of India, praying this Court for a Writ of Certiorarified Mandamus calling for the records of the impugned transfer order passed by the 4th respondent herein in his Nil proceedings dated 18.09.2021 and quash the same as illegal and further direct the respondents herein more particularly the 3rd and 4th respondents herein not to interfere with the petitioner's right to work as aided secondary grade Teacher in 5th respondent school as per the provisions of the Tamil Nadu Recognised Private Schools (Regulation) Act, 1973.

For Petitioner : Mr.V.Meenakshisundaram
For R1 & R2 : Mr.S.Shaji Bino,
Special Government Pleader
For R3 to R6 : Mr.Isaac Mohanlal,
Senior Counsel for
M/s.Isaac Chambers

ORDER

This writ petition is filed as against the order of transfer passed by 4th respondent dated 18.09.2021 transferring the petitioner from RC Primary School, Aavoor to St.Josephs Primary School, Palakurichi, Trichy.



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2.Mr.V.Meenakshi Sundaram, learned Counsel for the petitioner submits that 5th respondent RC Primary School, Aavoor is under the control of the Congregation of Sisters of St.Anne by its Mother General/ 4th respondent and the St Joseph Primary School at Palakurichi is under the control of the Roman Catholic Diocese/ 3rd respondent. The management and the administration of the institutions established by congregation is completely vested with the mother general of the congregation. The congregation is a separate entity and the educational agency will be the congregation of the sisters of St.Anne as per Rule 8 of the Tamil Nadu Recognised Private Schools (Regulations) Rules, 1974. Likewise the Roman Catholic Diocese, Trichy is a separate management. The management of the RC Diocese authorities are in no way connected with the congregation of the sisters St.Anne, viz versa. He further submits that due to some misunderstanding with the administration, the petitioner resigned the primary membership from RC congregation. The 3rd respondent diocese'



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authorities are giving pressure to her and on the instigation of 3rd respondent, 5th respondent restrained her from discharging her duties. Therefore, she also made a representation as against 5th respondent on 15.09.2021. She was not allowed to work on 15.09.2021, 17.09.2021 and on 18.09.2021. The 4th respondent congregation of sisters St.Anne issued the impugned order transferring this petitioner from 5th respondent school, which is under the administration of the diocese of 6th respondent school, which directly comes under the administration of 4th respondent of congregation.

2.The learned counsel further submits that 3rd respondent and 4th respondent are different educational agencies. However, the impugned order has been passed without jurisdiction. The petitioner has been transferred from one congregation management to another congregation management and it would affect her service condition. The 5th respondent school is an aided school governed by the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules,



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1977, salary is provided by grant by the respondents 1, 2 and 6 and the impugned order is in total violation of the above rules interfering with the rights of the teaching staff.

3.The learned Counsel further submits that any sister, who resigns or is removed from congregation will automatically lose her employment right in the institutions run by the congregation and this impugned order has been passed after the resignation of the petitioner from the congregation.

4.Mr.Isaac Mohanlal, learned Senior Counsel appearing for respondents 3 to 6 submits that the congregation of Sisters of St.Anne, Trichy is a society registered under the Societies Registration Act, 1860 and the congregation runs numerous educational institutions including the 6th respondent school. As a matter of policy, nuns from the congregation are appointed and transferred to the schools run by the roman catholic diocese. The 3rd respondent administration is head of all



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educational institutions owned and administered by roman catholic diocese of Trichy. The petitioner was appointed as secondary grade teacher in RC Primary School at Keelakadayam, Tirunelveli district, which is under the management of the RC diocese of Palayamkottai. The petitioner was transferred from RC primary school, Keelakadayam to RC primary school, Nettur in the year 2015 and subsequently was transferred from Nettur to 5th respondent school in the year 2018. All the above transfer orders were passed by 4th respondent and vide the above said transfer orders, the petitioner got transferred from RC diocese, Palayamkottai to RC diocese Trichy, though both dioceses are separate educational agencies. However when the earlier transfer orders were passed, the petitioner did not raise any objection. Now on administrative ground the petitioner was transferred from 5th respondent school to 6th respondent school and another nun from 6th respondent school was transferred to 5th respondent school. This transfer is passed purely on administrative reasons and therefore, there is no



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reason to interfere with the impugned order.

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5.The learned Senior Counsel further submits that the order of transfer is already given effect and the Teacher, who was transferred to the petitioner's place has already joined in 5th respondent school. The learned Senior Counsel has also relied on the earlier transfer orders and has also relied on G.O.Ms.No.45 School Education Department, dated 17.12.1999, wherein exemption was granted for effecting transfers between the congregation and dioceses.

6.This Court considered the rival submissions and perused the materials placed on record.

7.The above petitioner was working as a secondary grade teacher in 5th respondent RC Primary School of Avoor and she was transferred to 6th respondent St.Joseph Primary school at Trichy. The impugned order of transfer is challenged that the management of the transferee school is different and



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4th respondent is not having jurisdiction to pass the impugned transfer order and it would affect her service condition. It is also against the Tamil Nadu Minority Schools (Recognition and Payment of Grant) Rules, 1977. The petitioner was initially appointed as a secondary grade teacher in RC primary school, Keelakadayam, Tirunelveli district, which is under the management of RC diocese of Palayamkottai. She was subsequently transferred from RC primary school, Keelakadayam to RC primary school, Nettur on 08.06.2015, pursuant to the orders of 4th respondent. From Nettur, she was further transferred to 5th respondent school on 04.07.2018 by the orders of 4th respondent. Those two transfers were not challenged by the petitioner. Now this transfer order passed by 4th respondent transferring the petitioner from 5th respondent school to 6th respondent school, has been challenged on the ground of jurisdiction and also on the ground that transferee is a separate congregation management and it would affect her service condition.



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8.The learned senior counsel appearing for the respondents 3 to 6 gave an undertaking that this transfer would not affect the petitioner's service conditions. The petitioner was working as a teacher in the 5th respondent school from 03.07.2018 to 18.09.2021 for more than three years and in view of the undertaking given by the respondents this Court is not inclined to interfere with the impugned order. Accordingly this writ petition is dismissed. No costs. Consequently connected miscellaneous petition is also dismissed.

02.12.2022

dsk

To

- 1.The District Educational Officer,
District Educational Office,
Pudukottai District.
- 2.The Block Educational Officer,
Block Educational Office,
Viralimalai,
Pudukottai District.



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B. PUGALENDHI, J.

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ORDER MADE IN
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