



W.P.(MD)No.22589 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.09.2022

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.22589 of 2022

and

W.M.P(MD)No.16757 of 2022

P.Periyasamy,
Headmaster,
Government Higher Secondary School,
Elavanur,
Karur.

... Petitioner

Vs

1.The Chief Educational Officer,
Karur District,
Karur.

2.The District Educational Officer,
Karur District,
Karur.

... Respondents

Prayer: Writ Petition filed under Article 226 of the Constitution of India praying to issue a Writ of Certiorari, to call for the records relating to the impugned order passed by the first respondent vide his proceedings in Na.Ka.No.10237/Aa1/ 2021 dated 20.09.2022 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan
Senior Counsel
for M/s.Ajmal Associates



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For Respondents : Mr.S.Shaji Bino
Special Government Pleader

ORDER

Heard the learned senior counsel appearing for the writ petitioner and the learned Special Government Pleader appearing for the respondents.

2. By the impugned order dated 20.09.2022, the petitioner has been transferred from his post as Head Master, Government Higher Secondary School, Elavanur, Karur Educational District to Government Higher Secondary School, Ayyarmalai, Kulithalai, Karur District.

3. The petitioner was originally appointed as PG Assistant on 12.08.1996 and he was promoted as Head Master on 20.06.2014. The petitioner claims that he has been a strict disciplinarian. Since some of the teachers were irregular in their reporting for duty, the petitioner put them to task. The aggrieved teachers appear to have complained and based on the complaint, an enquiry was also conducted by District Educational Officer, Karur District. Based on his report dated 06.07.2022, the impugned order of transfer has been passed. In the impugned order of transfer itself, there is a specific reference to the enquiry report submitted by the District Educational Officer, Karur District.



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4. The learned Senior Counsel placed reliance on the decision of the Hon'ble Supreme Court reported in **(2009) 2 SCC 592 (Somesh Tiwari Vs Union of India)**. In the said decision, the Hon'ble Supreme Court held as follows:

“20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in lieu of punishment, the same is liable to be set aside being wholly illegal. ”

5. The learned Senior Counsel would submit that the said decision is squarely applicable to the facts of this case. He called upon this Court to quash the impugned order.

6. The learned Special Government Pleader appearing for the respondents submitted that the impugned order does not call for any interference. He also made available a copy of the enquiry report referred to in



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the impugned order of transfer. He also relied on the decision reported in

(2011) 12 SCC 137 (The Registrar General High Court of Judicature at Madras Vs R.Perachi and Others).

7. I carefully considered the rival contentions and went through the materials on record.

8. It is true that if the transfer order has been issued in lien of punishment or it is otherwise punitive, then, it has to be set aside. The question that arises in this case is whether such an approach was adopted by the department. I went through the report referred to in the impugned order. It is seen that any complaint that is made to the Hon'ble Chief Minister Special cell is forwarded to the concerned department for conducting enquiry and for taking action. Pursuant thereto, an enquiry was conducted by the District Educational Officer, Karur. The District Educational Officer, Karur enquired the writ petitioner, teachers, students and the President of the Parents Teachers Association. After receiving inputs from all the parties concerned, the District Educational Officer, Karur came to the conclusion that the relationship between the writ petitioner on the one hand and the teachers and students on the other has come under strain. Only in the interest of the Institution, he had suggested that the petitioner can be transferred. The suggestion given by the District Educational Officer, Karur was accepted by the Chief Educational Officer and



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thereafter, the impugned order of transfer has been passed. The impugned order of transfer does not cast any stigma on the petitioner. It clearly states that only for administrative reason, he has been transferred. It is true that there is a reference to the enquiry report. I went through the same. It merely sets out the allegations made by the teachers and the students against the writ petitioner. The authorities have not come to any adverse conclusion at all against the writ petitioner. The authorities have genuinely felt that if the petitioner continues to be at the helm of affairs in the Government Higher Secondary School, Elavanur, it may not be conducive to the interest of administration. Only for this reason, the petitioner has been transferred. This ought not to be taken as casting stigma on the petitioner. In any event, I clarify that in the impugned order, no stigma has been cast on the writ petitioner. The transfer order shall be treated only as regular transfer order made by the authority on administrative grounds. I do not find any ground to interfere.

9. This writ petition is dismissed. Consequently, connected miscellaneous petition is closed. No costs.

26.09.2022

Index : Yes / No
Internet : Yes/ No
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G.R.SWAMINATHAN, J.

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To

- 1.The Chief Educational Officer,
Karur District,
Karur.
- 2.The District Educational Officer,
Karur District,
Karur.

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