



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.11.2022

CORAM

THE HON'BLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.23793 of 2022

and

W.M.P(MD)Nos.17858 & 17863 of 2022

M.Thangeswaran

... Petitioner

V.

1.The Commissioner of School Education,
Nungambakkam, Chennai.

2.The Joint Director of School Education,
(Personnel),
Chennai – 600 006.

3.The Chief Educational Officer,
Virudhunagar District, Virudhunagar.

4.The District Educational Officer,
Virudhunagar District, Virudhunagar.

5.K.Ramesh

... 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 third respondent in proceedings Na.ka.No. 7488-A1-2022 dated 30.09.2022 (served on the petitioner on 09.10.2022) and consequential order passed by the third respondent in proceedings in



Na.Ka.No.7488-A1-2022 dated 30.09.2022 dated 30.09.2022 and quash the same as illegal.

For Petitioner : Mr.M.Ajmal Khan, Senior Counsel
assisted by Mr.S.Mohammed Suhail

For Respondents : Mr.J.Ashok,
Additional Government Pleader

ORDER

Heard the learned Senior counsel appearing for the petitioner and the learned Additional Government Pleader appearing for the respondents 1 to 4 and the learned counsel appearing for the fifth respondent.

2.By the impugned order dated 30.09.2022, the petitioner has been transferred and posted as B.T Assistant in Government Boys Higher Secondary School, Thiruthangal. The question as to whether the Deputy Inspector of Schools can be transferred and posted as B.T Assistants has already been decided by the Hon'ble Division Bench vide order dated 25.03.2022 in WA(MD)Nos.254 and 255 of 2022. The Hon'ble Division Bench held in the said decision that the post of Deputy Inspector of Schools is a distinct category and that those holding the said post cannot be transferred and posted as B.T Assistants. I therefore straightaway set aside the impugned



order in view of the aforesaid decision of the Hon'ble Division Bench.

However, it is brought to my notice that questioning the Hon'ble Division Bench order, the State has preferred SLP (C) No.19250 of 2022 before the Hon'ble Apex Court and the Hon'ble Apex Court had issued notice for final disposal on 25.11.2022. The learned Additional Government Pleader would therefore submit that this Court can defer hearing of this writ petition and abide by the decision of the Hon'ble Apex Court.

3.Since the order of the Hon'ble Division Bench has not been stayed till date, it is only the Division Bench order that is holding the field. I therefore dispose of this writ petition by directing the respondents 1 to 4 to continue to treat the petitioner only as Deputy Inspector of Schools till the Hon'ble Apex Court decides the issue. In other words, the status of the petitioner will abide by the decision of the proceedings that are pending before the Hon'ble Apex Court.

4.I need to make one pertinent observation. Ms.A.Gnana Gowri, the Chief Educational Officer, Virudhunagar District is present in person before me. She pointed out that the entire issue has been given a communal color. She placed before me host of materials which show that she has been unfairly targeted. The petitioner Thiru.M.Thangeswaran submitted that he has great



respect and reverence for Ms.A.Gnana Gowri and that in future he will not conduct himself in any manner that may even remotely hurt her feelings and sentiments. I further observe that service issues should be resolved in the manner known to law and through proper channels and that third parties and communal associations should not poke their noses. I call upon the petitioner to keep himself away from such forces. The petitioner also informs the court that he will completely keep away from them in future. The statement made by the petitioner is recorded.

5.It is stated that pursuant to the interim order granted by this Court, the petitioner participated in the counselling process and that he has chosen Sivakasi. The petitioner shall be permitted to join at Sivakasi as Deputy Inspector of Schools on 17.11.2022. The impugned order was passed on 30.09.2022. The petitioner moved this Court on 14.10.2022. Interim order of stay was not granted. Only today, the writ petition is being disposed of. The question that now arises as to how the intervening period is to be treated. The petitioner states that it can be adjusted against his eligible leave. The third respondent shall regularize the intervening period for all other purposes and also disburse the salary arrears forthwith and without any delay. I reiterate that the petitioner's position is subject to the proceedings that are now pending before the Hon'ble Supreme Court of India.



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6.The writ petition is disposed of in the above terms. No costs.

Connected miscellaneous petitions are closed.

16.11.2022

Index : Yes / No
Internet : Yes/ No
skm

Note: Issue order copy on 16.11.2022.

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G.R.SWAMINATHAN, J.

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