



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 31.01.2022

CORAM:

THE HONOURABLE MR.JUSTICE **B.PUGALENDHI**

W.P. (MD)No.22196 of 2021

and

W.M.P. (MD)Nos.18760, 18762 of 2021

T.Sam Razal

: Petitioner

Vs.

1.The Correspondent,
CMS Evangelical Schools,
Alwaneri, Maruthakulam,
Kodankulam Pastorate at Kodankulam,
Nanguneri Taluk,
Tirunelveli District.

2.The Secretary,
Tirunelveli CMS Evangelical Church Society,
Edayankulam,
Tirunelveli District.

3.The District Educational Officer,
Valliyoar,
Tirunelveli District.

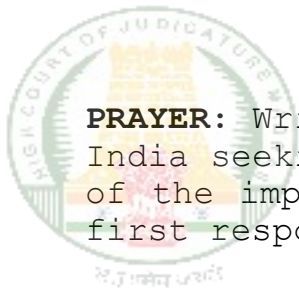
4.The District Educational Officer,
Tiruchendur,
Tuticorin District.

5.The Block Educational Officer,
Nanguneri,
Tirunelveli District.

6.The Block Educational Officer,
Alwarthirunagari,
Tuticorin District.

7.M.S.A.Mercy Packiyarani,
Headmistress,
CMS Evangelical Primary School,
Sembankudiyiruppu,
Tuticorin District.

: Respondents



PRAYER: Writ Petition filed under Article 226 of the Constitution of India seeking issuance of Writ of Certiorari calling for the records of the impugned transfer order dated 08.11.2021 on the file of the first respondent and quash the same.

For Petitioner : Mr.G.Prabhu Rajadurai

For Respondents : Mr.Issac Mohanlal,
Senior Counsel
for M/s.Issac Chambers for R.1

Mr.S.Saji Bino,
Special Government Pleader
for R.3 to R.6

ORDER

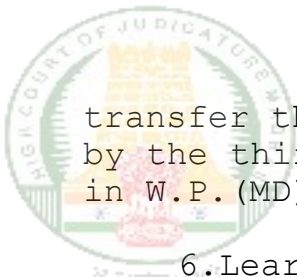
The subject matter of the writ petition is a transfer order dated 08.11.2021 passed by the first respondent.

2.The writ petition is filed by the petitioner on the ground that the first respondent is not the competent authority to pass the impugned order of transfer.

3.Heard the learned Counsel appearing for the respective parties and perused the available records.

4.Learned Counsel for the petitioner submitted that the first respondent, in the capacity as Correspondent of CMS Evangelical Schools, Nanguneri Taluk, Tirunelveli District, has passed the impugned order transferring the petitioner, who was working as Headmaster at CMS Evangelical School, Nanguneri Taluk, Tirunelveli District to CMS Evangelical Primary School, Sembankudiyiruppu, Sattankulam Taluk, Tuticorin district. The school from which the petitioner was transferred lies in the jurisdiction of the third respondent / District Educational Officer, Valliyoor and the school to which the petitioner was transferred lies in the jurisdiction of the fourth respondent / District Educational Officer, Tiruchendur.

5.He further submitted that the first respondent was elected as the Correspondent of CMS Evangelical Church Society and the Form-7 submitted before the Registrar of Societies was also accepted. Based on that, the third respondent / District Educational Officer, Valliyoor, approved the first respondent as Educational Agency, from where the petitioner was transferred to another Evangelical Primary School at Sembankudiyiruppu, Sattankulam Taluk, which comes under the jurisdiction of the fourth respondent. Since the fourth respondent / District Educational Officer, Tiruchendur is yet to take a decision on approving the Educational Agency of the first respondent, the first respondent is not having any authority to



transfer the petitioner. In fact, the approval of Educational Agency by the third respondent is already under challenge before this Court in W.P. (MD)No.20311 of 2021.

6.Learned Special Government Pleader appearing for the official respondents submitted that in view of the pendency of the writ petition in W.P.(MD)No.20311 of 2021, the fourth respondent has not taken any decision on the approval of the Educational Agency.

7.In view of the above facts projected, this Court is not inclined to entertain this writ petition that the order of transfer is passed by an incompetent authority, unless and until, the request for approval of Educational Agency is rejected by the competent authority / fourth respondent or any adverse order is passed by this Court in the pending writ petition in W.P.(MD)No.20311 of 2021. Till such time, the first respondent is having every right to transfer the petitioner from Nanguneri, where the Educational Agency of the first respondent was already accepted and approved by the competent authority.

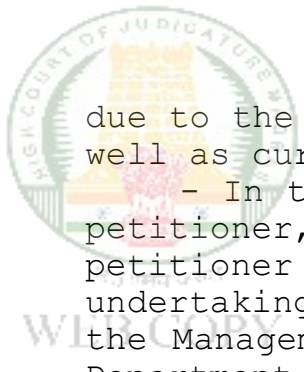
8.At this juncture, learned Counsel for the petitioner interfered and claimed that the salary of the petitioner from 08.11.2021 to 04.01.2022 has not been paid so far. The apprehension of the petitioner is that since the Educational Agency has not been accepted and approved by the fourth respondent / the District Educational Officer, the salary has not been sanctioned and paid to the petitioner.

9.Learned Senior Counsel appearing for the first respondent submitted that the petitioner is retaining his Service Register and therefore, necessary proposal has not been made so far. For making necessary entries and for sending the proposal, the Service Register is required and as and when, the Service Register is produced by the petitioner, they would process the papers for salary. Learned Senior Counsel further submitted that the first respondent / Correspondent is also ready to pay the salary due to the petitioner as early as possible, on return of Service Register, even from the funds of the Society, in the event of the Department taking a stand that the Educational Agency could not be approved.

10.In view of the foregoing discussions, this writ petition stands disposed of on the following terms:-

- The impugned order of transfer dated 08.11.2021 is not disturbed, for the present and it is always open to the petitioner to agitate the same, depending upon the result of the writ petition in W.P. (MD)No.20311 of 2021.

- The petitioner shall return the Service Register immediately, without waiting for a copy of this order. On receipt of the Service Register, the first respondent shall submit the proposal for salary



due to the petitioner, both arrears from 08.11.2021 to 04.01.2022 as well as current, without any further delay.

- In the event of the Department not clearing the salary to the petitioner, the first respondent shall pay the salary to the petitioner from the funds of the Society, after obtaining an undertaking from the petitioner that he would return the amount to the Management, as and when he receives the same [salary] from the Department.

There shall be no order as to costs. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

Sub Assistant Registrar

To

- 1.The District Educational Officer,
Valliyoor,Tirunelveli District.
- 2.The District Educational Officer,
Tiruchendur,Tuticorin District.
- 3.The Block Educational Officer,
Nanguneri,Tirunelveli District.
- 4.The Block Educational Officer,
Alwarthirunagari, Tuticorin District.

+1 CC to M/s.ISAAC CHAMBERS, Advocate (SR-3417[F] dated 01/02/2022)
+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-3419[F] dated 01/02/2022)
+1 CC to M/s.SPL.GP (SR-3689[F] dated 02/02/2022)

W.P. (MD)No.22196 of 2021
31.01.2022

gk

MS/18.03.2022/4P.8C