



W.P. No.15253/2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE : 14.06.2023

CORAM

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

W.P. NO.15253 OF 2023

Nazia Hassan

.. Petitioner

- Vs -

1. Central Board of Secondary Examination,
Rep. by its Regional Director,
New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
Anna Nagar West, Chennai 600 040.

2. Padma SeshadriBalaBhavan
Senior Secondary School,
Rep. by its Correspondent,
Mrs.SheelaRajendran,
17, Thirumalai Pillai Road,
T.Nagar, Chennai-600 006.

3. Muizz Ali

..Respondents

Writ petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus or any other appropriate writ or direction, directing the 1st and 2nd respondents to issue a transfer certificate (TC) to the minor child Master Azlaan Ali.



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For Petitioner : Mr. S.Rajendra Kumar
For Mr. P.V.Selvarajan

For Respondents : Mr. G.Nagarajan for R1
Mr .Rahul Balaji for R2
Mr .V.Vijaykumar, SC, for
M/s. G.Baradwaj

ORDER

Non-issuance of transfer certificate sought from the respondents 1 and 2 by the writ petitioner with regard to her son, viz., Azlaan Ali, is put in issue before this Court in the present writ petition.

2. The marriage between the petitioner and the 3rd respondent was solemnized on 27.06.2005 according to Sharia law and out of the said wedlock, they have begotten two children, viz. Nabihah Ali and Azlaan Ali. However, matrimonial discord arose between the petitioner and the 3rd respondent due to which the petitioner was forced to leave her matrimonial home and reside at her parental home along with her minor children since 2018. Since the matrimonial dispute could not be amicably resolved, in the year 2021, M.C. No.153 of 2021 was filed before the 2nd Addl. Family Court, Chennai, by the petitioner seeking maintenance from the 3rd respondent. Countering the said maintenance case,



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the 3rd respondent filed G.W.O.P.No.695 of 2021 and both the petitions are pending final adjudication.

3. In the aforesaid scenario, as the petitioner's son, viz., Azlaan Ali was studying in Class VIII in the 2nd respondent school and is imparted with Hindi and Sanskrit as his 2nd and 3rd language respectively. In the current academic year, the petitioner's son is progressing to Class IX. In this scenario, it was informed by the 2nd respondent School that as per the orders of the Government of Tamil Nadu, in consonance with the New Language Policy, teaching/study of Tamil has been made compulsory for every student as an additional language from the next academic year. Since, the petitioner's son is not willing to study Tamil language, the petitioner has decided, in the interest of her son, to admit him in Lady Andal Venkatasubba Rao Matriculation School at Harrington Road. Therefore, she made a representation to the 2nd respondent seeking issuance of Transfer Certificate for her son, but the same was refused to be issued with by the 2nd respondent, which has prompted filing of the present petition.

4. Learned counsel for the petitioner submits that the main grievance of the petitioner is that all along her son had not undergone Tamil language as a



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part of the curriculum and, therefore, does not know to read or write Tamil. Compelling the petitioner's son to undergo Tamil language as a compulsory course in the curriculum would put much strain on the child and would cause much strain on the child at this crucial point of time. Only to limit the stress that would be cast upon her son, the petitioner sought for Transfer Certificate so that her son could be admitted in some other school, where Tamil language is not made a compulsory course of study. Therefore, considering the plight of the child, this Court may issue a direction to the 2nd respondent to issue Transfer Certificate.

5. Learned counsel appearing for the 2nd respondent submits that the interest of the child is of paramount consideration and moving the child out of the school in the crucial phase of his life, viz., Class IX would cause irreparable damage to the studies of the kid and it would hamper the progress of the child, as the new atmosphere in the other school would adversely affect the kid. Only in this backdrop, the 2nd respondent had called upon the petitioner to produce the willingness of the father of the child as well, so that there would be no finger cast on the school at a later point of time for having issued the transfer certificate without considering the interest and welfare of the child. Since the petitioner did



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not submit the said willingness letter, the school had not issued the transfer certificate. It is the further submission of the learned counsel that the other factors, which have come to light in this case, unerringly point out that the transfer certificate has been sought for by the petitioner only to take revenge against the 3rd respondent in the matrimonial dispute and not keeping in mind the interest of the child. However, he fairly conceded that the 2nd respondent would abide by any direction that this Court may issue taking into consideration the interest of the child.

6. Learned senior counsel appearing for the 3rd respondent submits that the maintenance case as well as the Guardian and Wards case are pending consideration before the Family Court and only with a view to wreck vengeance against the 3rd respondent, the petitioner is trying to jeopardize the life of the child by trying to move him out of the 2nd respondent school, at this crucial period of his career. It is the further submission of the learned senior counsel that both the parents have an equal interest in the welfare of the child and it cannot be the mother alone, who could have a deciding role, as the father has a predominant role to play in the education of the child. It is the further submission of the learned senior counsel that learning a new language would in no way cause



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mental stress to the child, as the child is now conversant in speaking Tamil and learning to read and write Tamil would only be in the interest of the kid in the later part of his life. It is the further submission of the learned senior counsel that learning another language is always an additive factor in the overall improvement of the child and could in no way jeopardize the career of the child. Therefore, keeping the interest of the child, this Court may pass orders directing continuance of the child in the 2nd respondent school, which has a reputation in imparting education.

7. This Court gave its anxious consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

8. The appalling nature of this case leaves this Court in a state of frustration, where even the parents are seldom conscious or take care of the interest and welfare of the kids. The Courts are merely made as battlefields for settling personal scores between the warring couples unmindful of the consequences it would have on the next generation, which has come from within them.



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9. The present case not only presents a picture of the gloomy state of the kids of the next generation, but also brings to light the nature of conflict that emerges between the spouses, which has a cascading effect on the their kids. The kids of today are multi-taskers with ability to grasp many aspects in a short span of time. In fact, the kids of today enrich themselves with many facets of education, including acquiring proficiency in multiple languages, which is the cornerstone in the achievement being made by teenagers. In fact, learning of different languages, not only helps an individual in mingling himself in the society, but it also helps him to adapt himself to any type of surrounding and adjust himself in various types of scenarios.

10. In fact, the present day parents see to it that the kids equip themselves not only with multiple degrees, but also acquire proficiency in as many languages as possible, so that they do not face any hurdle wherever they go and they shed themselves of the insecure feeling in alien surroundings, where it becomes difficult for them to interact, if they do not know many languages.



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11. In the case on hand, the child, for which transfer certificate is sought, is a kid of Urdu origin, having been born to parents of Tamil lineage and the said language is being spoken through the length and breadth of the State. Necessarily, proficiency in Tamil language would aid the kid in interaction with all types of people in school and also the child would feel comfortable while mingling with people in the society.

12. True it is that the child is imparted with Hindi and Sanskrit in the 2nd respondent school till date, but to make the child secure and handle themselves in all types of surroundings, the State Government, with a vision, had issued the order directing imparting of Tamil language to all students from the coming academic year. The order has been issued by the State Government not to harass the students, but only to harness the students, so that at a later point of time in their life they do not suffer. Learning Hindi and Sanskrit is good for the kid, but definitely learning the language of the State in which it is being brought up would definitely make the child understand its surroundings and appreciate all the facets of life living in the State and the importance of the language learnt would be evident to the child in its later life.



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13. A child may not have thought clearly, but it is the duty of the parents to think more for the child so that the child is not thrown out into an alien world, where communication would impact the growth of the child. In the case on hand, the Government, with the aforesaid vision, had issued the order to impart the child with the language of the State. However, the warring parents, more particularly, the petitioner, seems to have lost sight of the welfare of the child and putting the blame on the child that it finds difficulty to learn a language, had approached the 2nd respondent to issue transfer certificate for admitting the child in a school, where the petitioner alleges that Tamil is not compulsory.

14. Though such a case has been projected before this Court that Tamil is not compulsorily taught in the school, in which the petitioner proposes to admit her child, this Court is at a loss to understand as to how the said school, which is stated to be a Matriculation school could desist from teaching Tamil as a compulsory language inspite of the specific orders passed by the Government, when the said school is recognized under the State.

15. Education being a subject in the concurrent list, so long as the orders passed by the State are not in contravention of the directions of the Central



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Government, all the Schools functioning in the State are bound to follow the orders issued by the State. In such a backdrop, it is incumbent on the Matriculation schools, functioning in the State, more particularly, the school in which the petitioner alleges to admit her child, to teach Tamil as a compulsory language and no school, which has the recognition of the State Government could desist from following the order of the State Government. This itself clearly shows that the intention of the petitioner and the relief sought for is not in the welfare of the child, but more as a matter of taking revenge against the 3rd respondent.

16. Be that as it may. Mother, the incarnation of the Lord of Learning, has to impress upon the child the necessity of education and also the necessity for learning multiple languages, which would help the child in his future life. The energy derived from the mother by the kids lift the kids to greater height in their life as the mother is the person, who spends more of the time with the child, who has to imbibe in the child the need for gaining knowledge. However, the egoistic nature of the warring couples, in the present day scenario, puts in peril the lives of their very own kids.



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17. This one such classic case in which the kid born out of the wedlock is being locked in a place, whereby it is unable to break its shackles and continue its onward journey in life in the matter of education, as the fight between the couples is starting to endanger the life of the kid. While the mother wants the child not to learn Tamil, as it is alleged that it would put more strain on the child, the father wants the child to learn Tamil, so that it would not face difficulty in its later life.

18. This Court does not want to take sides with either of the parties, viz., the petitioner or the 3rd respondent. This Court has to decide the matter keeping in mind the welfare of the child, as the necessity of the child would only be the catapulting factor, which would weigh in the mind of this Court and not that of the likes or dislikes of either of the warring couples.

19. This Court has already pointed out the necessity of a broad learning of subjects as well as languages, which is material for sustenance in today's world. That being the case, learning a new language, which is the language of the State in which the child is being brought up, is of necessity, and it cannot be said that it is a burden on the child. Language of a State is like mother tongue of the



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child and there could be no compromise on the same. Even the Governments, both at the Centre and in the States have included first language, second language and third language in the curriculum only with a view to avert difficulties that would be faced by the children in their later part of life. This has to be realized by the parents and they should not put any fetters on the child in learning multiple languages.

20. The only issue which is canvassed before this Court by the petitioner is the difficulty expressed by the child in learning a new language. This Court wishes to pose itself a question. If a child expresses difficulty to go to school, will the parents adhere to the wishes of the child and stop it from going to school. Seldom any parents would do that and in the same way, this Court, stepping into the shoes of the parents, who have lost sight of the object of their wedlock, deems it fit and necessary that the relief sought for by the petitioner should be negated in the interests of the child rather than on the wishes of the father. The interest of the child takes paramount importance and with this in heart, the parents would look at the welfare of the child rather than seeing their life alone.



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21. The 2nd respondent has rightly rejected the request of the petitioner for transfer certificate of the child keeping in mind the interests of the child. If both the parents together take a decision, then it could be inferred to be in the interest of their children. But when couples, who are at loggerheads and have even knocked the doors of the Court with regard to their matrimonial tussle, take divergent decision, the decision of neither would be seen by the Court with any impunity and it would only be the welfare of their kids, which will be paramount in the mind of the Court, while deciding the relief sought for.

22. This Court has holistically considered the whole issue and is of the opinion that the rejection of the application of the petitioner for issuance of transfer certificate for her minor son, viz., Azlaan Ali, was just, proper and reasonable, keeping in mind the welfare of the child and there arises no necessity for this Court to interfere in the said order of rejection. Further, this Court makes it clear that pending consideration of the maintenance case lodged by the petitioner and the Guardian and Wards petition lodged by the 3rd respondent, the 2nd respondent shall not issue any transfer certificate at any point of time and it is for the parties to go before the Court, where their case is pending to obtain necessary orders with regard to the child, as the pending *lis* would have a bearing



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on the child of whom the Court is the custodian till such time a quietus is given to the case between the parties.

23. This writ petition is dismissed with the aforesaid observations and directions. There shall be no order as to costs.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

NHS/GLN

Copy to :

1. The Regional Director,
Central Board of Secondary Examination,
New No.3, Old No.1630 A,
"J" Block, 16th Main Road,
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M.DHANDAPANI, J.

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