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W.P.No.18636 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.07.2023

CORAM :

THE HONOURABLE MR. JUSTICE N. SATHISH KUMAR

W.P.No.18636 of 2023

and

W.M.P.No.17880 of 2023

J.Padmaja

... Petitioner

Vs.

1.The Director of Elementary Education,
College Road, Chennai – 6.

2.The District Educational Officer (Elementary Education)
Myiladuthurai, Myiladuthurai District.

3.The Block Educational Officer,
Kuthalam Panchayat Union,
Kuthalam, Myiladuthurai District.

... Respondents

Prayer : Writ Petition filed under Article 226 of the Constitution of India for issuance of a Writ of Certiorarified Mandamus calling for the records of the respondents in relation to the proceedings issued in Na.Ka.No.50/A2/2022, dated 18.05.2023, and Na.Ka.No.832/A1/2023, dated 31.05.2023, by the 2nd and 3rd respondents respectively and quash the same and issue a consequential direction to the respondents to allow the petitioner to continue as Headmaster, Panchayat Union Primary School, Maruthur, Kuthalam Panchayat Union, Mayiladuthurai District.



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W.P.No.18636 of 2023

For Petitioner : Mr.R.Saseetharan

For Respondents : Mr.P.Baladhandayutham
Special Government Pleader

ORDER

This writ petition has been filed challenging the order of transfer issued to the petitioner who was working as Headmistress in Panchayat Union Primary School, Maruthur, Kuthalam Panchayat Union, Mayiladuthurai District, transferring her to another School in the same region.

2.The petitioner states that she was working as Primary School Headmistress in Panchayat Union Primary School, Maruthur, Kuthalam Panchayat Union, Mayiladuthurai District. It is the case of the petitioner that one Govindammal, who was working as Noon Meal Organiser in the same School and retired from service in the year 2016, gave a complaint making certain allegations against the petitioner and thereafter, the said Govindammal filed a writ petition in W.P.No.25103 of 2018 to initiate disciplinary proceedings against the petitioner. This Court, by order dated 16.11.2022 in W.P.No.25103 of 2018, disposed of the said writ petition by directing the 2nd respondent herein to complete the enquiry and pass



W.P.No.18636 of 2023

appropriate orders. Thereafter, the 2nd respondent has passed the impugned order, dated 18.05.2023, transferring the petitioner from Panchayat Union Primary School, Maruthur, to Panchayat Union Primary School, Sri Kandapuram, Kuthalam Panchayat Union, Mayiladuthurai District. Consequently, the 3rd respondent has passed the impugned order dated 31.05.2023, directing the petitioner to hand over the charge to the next senior most teacher in the School. Challenging the orders of the 2nd and 3rd respondents, the present writ petition has been filed.

3.Learned counsel for the petitioner submitted that the transfer order has been passed pursuant to the orders of this Court made in W.P.No.25103 of 2018, dated 16.11.2022, directing the 2nd respondent to complete the enquiry, and therefore, the transfer order is punitive in nature. The learned counsel further submitted that, despite the fact that final orders are yet to be passed in the departmental enquiry, the impugned transfer order has been passed only based on the complaint given by the said Govindammal, which has cast a stigma on the petitioner. Therefore, learned counsel submitted that the impugned order is attached with *mala fides* and motive and the same cannot be sustained in the eye of law. The learned counsel further submitted that the petitioner has undergone a



W.P.No.18636 of 2023

surgery and she requires medical treatment in the same place. Therefore, on medical grounds also, the learned counsel seeks to quash the impugned transfer order.

4.*Per contra*, the respondents have filed a counter affidavit, wherein, it is stated that the petitioner was working in the same School for more than 10 years and there were several complaints against her and show cause notice was also issued against her on 01.12.2017. It is further stated that there were frequent quarrels between the petitioner and other co-workers in the School. On the basis of enquiry report, the petitioner was issued show cause notice dated 27.09.2018. A writ petition in W.P.No.25103 of 2018 came to be filed by the said Govindammal, wherein, this Court passed an order on 16.11.2022 directing the authorities to complete the enquiry and pass appropriate orders. It is further stated that enquiry was also conducted by the 3rd respondent on 03.05.2023 and 04.05.2023 and final orders are yet to be passed. In the meanwhile, considering the interest and welfare of the students, the administrative transfer has been ordered.

5.Heard the learned counsel for the petitioner and the learned



W.P.No.18636 of 2023

Special Government Pleader appearing for the respondents and perused the entire materials available on record.

6.It is not in dispute that the petitioner was working in the same School for more than 10 years. Moreover, the transfer has been effected to the nearby School which is in the same Taluk and this fact is also not in dispute. The main contention of the learned counsel for the petitioner is that the transfer order is punitive in nature. From the nature of pleadings on either side, it appears that there are several complaints against the petitioner from the year 2017 onwards and several enquires were also conducted. Though at the first blush, it may appear that the transfer order has been passed as a consequence of the complaints and enquiries against the petitioner, it is relevant to note that the petitioner was working as Headmistress in the School and if there are frequent quarrels, complaints and enquiries contemplated against her, it will, of course, affect the interest of the students in general. Therefore, at such a stage, the action of the Disciplinary Authority, transferring the petitioner, cannot be construed as punitive in nature. Even G.O.(Ms) No.10, Personnel and Administrative Reforms Department, dated 07.01.1994, contemplates that the General Policy of Transfer is not applicable to the persons where severe allegations



W.P.No.18636 of 2023

are pending enquiry, when it is considered necessary in the public interest

and sufficient in lieu of suspension that the officer may be transferred. In

such view of the matter, when the impugned order of transfer has been passed considering the interest of the students studying in the School and also having regard to the fact that the transfer has been effected only to a nearby place, that too within the same Taluk, this Court is of the view that the order of transfer cannot be construed as punitive in nature, nor can be attached with any *mala fides* or motives. Since the petitioner has been posted in the same Taluk, there may not be any impediment in continuing her medical treatment also. Therefore, this Court, for the benefit of the students, upholds the impugned orders passed by the respondents 2 and 3 dated 18.05.2023 and 31.05.2023. However, it is made clear that the impugned orders of transfer shall not cast any stigma on the petitioner.

7. Accordingly, this writ petition is dismissed. No costs.

Consequently, connected miscellaneous petition is closed.

24.07.2023

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Internet : Yes

Index : Yes / No

Neutral citation : Yes / No

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W.P.No.18636 of 2023

Speaking order / Nonspeaking order

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N. SATHISH KUMAR, J.

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WEB COPY



W.P.No.18636 of 2023

W.P.No.18636 of 2023

24.07.2023
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