



W.P.(MD)No.14153 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 15.06.2023

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)No.14153 of 2023

P.Selvarani

... Petitioner

Vs.

1.The Director,
Elementary Education Department,
Directorate of Elementary Education,
DPI Complex, Chennai – 600 006.

2.The District Elementary Educational Officer,
Theni District – 625 531.

3.The Block Elementary Educational Officer,
Andipatti Block,
Theni District – 625 512.

... Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Mandamus, directing the 1st respondent to grant no objection certificate (NOC) for the petitioner to travel abroad for the period mentioned in the application submitted to the 3rd respondent and received by the 1st respondent on 12.05.2023.

For Petitioner : Mr.Romeo Roy Alfred

For Respondents : Mr.N.Satheesh Kumar,
Addl. Government Pleader.



W.P.(MD)No.14153 of 2023

ORDER

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Heard the learned counsel on either side.

2.The petitioner is presently working as Headmistress in a panchyat union school. She joined service in the year 1990 and completed 33 years of service. Her daughter is now in Norway and it appears that her grandchild is having some medical issues. The petitioner is therefore constrained to go to Norway to be of assistance to her daughter. The petitioner applied to the respondents seeking permission. The application was submitted in the first week of May, 2023. Since no order has been passed, the present writ petition came to be filed.

3.The petitioner is having passport and she has also obtained visa. The only question that calls for consideration is whether non-grant of no objection certificate as sought for by the petitioner warrants interference at the hands of this Court.

4.The learned Additional Government Pleader for the respondents submitted that this Court can direct the first respondent to expeditiously



W.P.(MD)No.14153 of 2023

dispose of the petitioner's application. He called upon this Court to refrain from passing any positive direction.

5.I carefully considered the rival contentions and went through the materials on record. Rule 24 (A) of the Tamil Nadu Government Servants Conduct Rules, 1973 is as follows:-

“24-A.Obtaining of Identity Certificate before applying for Passport and No Objection Certificate for undertaking foreign trip.

"No Government servant shall, except after obtaining Identity Certificate from the Government, apply for grant or renewal of passport and shall, except after obtaining No Objection Certificate from the Government, undertake trip to foreign country. Application for such Identity Certificate or No Objection Certificate shall be submitted in Form I in Schedule III appended to these Rules and the Identity Certificate and No Objection Certificate, shall be issued in Forms II and III, respectively, in the said Schedule". While applying for such No Objection Certificate information regarding the purpose of the visit, the duration of stay, and the names of Countries proposed to be visited shall be furnished.

"Provided that he shall not leave India for seeking employment abroad without the prior permission of the Government.""



W.P.(MD)No.14153 of 2023

6.The Government has also issued G.O.(Ms)No.109, Personnel and

Administrative Reforms Department, dated 31.07.2006 setting out the guidelines. The said government order is as follows:-

5.10 Conduct Rules – No Objection Certificate to undertake trip to a foreign country and sanction of leave – Delegation of powers to the Heads of Departments in respect of Group B, C and D Officers

Personnel and Administrative Reforms (A) Department
G.O. (Ms) No. 109
Dated : 31.7.2006
Read :

1. G.O. (Ms) No.288, Personnel and Administrative Reforms (A) Department, dated 04.12.1997
2. G.O. (Ms) No.90, Personnel and Administrative Reforms (A) Department, dated 13.05.1999
3. Govt. letter No.13676/A/98-9, Personnel and Administrative Reforms (A) Department, dated 07.01.2000

ORDER

As per rule 24A of the Tamilnadu Government Servants Conduct Rules 1973, no Government Servant shall, except after obtaining a "No Objection Certificate" from the Government apply for grant or renewal of passport or undertake trip to a foreign Country. While applying for such "No Objection Certificate", information regarding the purpose of the visit, the duration of stay and the name of the Countries proposed to be visited shall be furnished.

2.In the Government Order first read above instructions have been issued to the effect that the powers to issue "No Objection Certificate" be delegated to the respective Heads of Departments in respect of Government Servants belonging to Group B,C and D who apply for grant or renewal of passport to undertake trips to foreign Countries as tourists or on pilgrimage or to see friends and relatives or to seek employment. However the Government, retained the powers to issue "No Objection Certificate" in respect of 'A' Group Officers who apply for passport.

3. As foreign travel has become very common and economically viable, more and more Government Servants are frequently travelling abroad either as tourists or to see their near and dear ones. Consequently a large number of proposals to issue "No Objection Certificate" to go abroad are received by the Government. The Government have therefore examined the question of delegating more powers to the heads of Departments in this matter. After careful consideration, the government direct that powers be delegated to the Heads of Departments to issue "No Objection certificate" to the Government Servants belonging to Groups B, C and D only who apply to undertake trip to foreign countries as tourists or on pilgrimage or to see friends and relatives or to seek employment and to sanction leave therefore. However the Government retains the powers to issue "No Objection Certificate" in respect of Group 'A' Officers who apply to undertake trip to foreign countries.

4. The Government also direct that the Heads of Departments shall ensure the following before, granting "No Objection Certificate" to the government Servants, as aforesaid.

- i) No disciplinary proceedings are pending or contemplated against the individual under rule 17 (b) of the Tamil Nadu Civil Services (Discipline & Appeal) Rules.
- ii) No Vigilance case is pending or contemplated against the individual.
- iii) There are no grounds to believe that the applicant could figure adversely on the security records of the Government; (report should be obtained from SBCID) and
- iv) The decision for the grant of "No objection Certificate" should be taken by the Heads of Department himse If/herself. The "No Objection certificate" should also be signed by him/her.

507



W.P.(MD)No.14153 of 2023

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5. The Government also direct that the Heads of Departments shall issue the "No Objection Certificate" incorporating the following conditions namely:-

- i) That the individual should not take up any appointment or undergo any training or study programme during his/her stay abroad without prior approval of the head of Department.
- ii) That the Government will not be made liable for any expenditure including traveling expenditure etc. in connection with his/her trip abroad.
- iii) That he/she should not tender resignation of the post held by him/her under this Government while abroad and his/her resignation of appointment will not be accepted on any account.
- iv) That he/she should not derive or seek any business while abroad.
- v) That before proceeding abroad he/she should apply to the Head of Departments concerned for the sanction of leave to which he/she is eligible and get it sanctioned for the entire period of his/her absence.
- vi) That he/she shall not use the "No Objection Certificate" for any subsequent trip abroad for any purpose without the prior sanction of the competent authority.
- vii) That the "No Objection Certificate" will be valid only for a period of six months from the date of issue of such certificate.

6. The consolidated instructions issued by the Government in the letter third read above shall be followed scrupulously by the Head of Departments while granting "No Objection Certificate" to the Government servants to go abroad.

7. Necessary amendment to rule 24-A of the Tamil Nadu Government Servant's conduct Rules, 1973 will be issued separately with reference to para 3 above.

(By order of the Governor)

GIRIJA VAIDYANATHAN
SECRETARY TO GOVERNMENT

7. The petitioner's request can be denied only if she comes under any of the adverse circumstances set out in Clause 4(i)(ii)(iii) of the aforesaid government order. No such objection has been raised by the respondents. It appears that there is a criminal case pending against the petitioner. A relative of the petitioner has given a matrimonial complaint and has implicated the petitioner also. The said proceeding has been stayed by this Court in CrI.O.P.(MD)No.6740 of 2022. In these circumstances, there cannot be any objection for issuing no objection certificate as sought for by the petitioner. The petitioner in anticipation



W.P.(MD)No.14153 of 2023

has booked her tickets. I am conscious that I am putting the first respondent under pressure. However, considering the special facts and circumstances of the case, I direct the first respondent to issue no objection certificate enabling the petitioner to undertake the petition-mentioned foreign travel by 16.06.2023 itself.

8.This writ petition is allowed accordingly. No costs.

15.06.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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Issue order copy on 15.06.2023.

To:-

- 1.The Director,
Elementary Education Department,
Directorate of Elementary Education,
DPI Complex, Chennai – 600 006.
- 2.The District Elementary Educational Officer,
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W.P.(MD)No.14153 of 2023



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W.P.(MD)No.14153 of 2023

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W.P.(MD)No.14153 of 2023

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