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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.06.2023

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**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN**

W.P(MD)No.14457 of 2023

and

W.M.P.(MD)Nos.12255, 12256 & 12257 of 2023

V.Packiaselvi

... Petitioner

**Vs.**

- 1.State of Tamil Nadu,  
Represented by its Principal Secretary to Government,  
School Education (SE5(1)) Department,  
Secretariat,  
Chennai-9.
- 2.The Director of Elementary Education,  
DPI Campus,  
Chennai-6.
- 3.The Joint Director of Elementary Education,  
DPI Campus,  
Chennai-6.
- 4.The Chief Educational Officer,  
Thoothukudi District.
- 5.The District Educational Officer (Elementary),  
Kovilpatti,  
Thoothukudi District.



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6. The District Educational Officer (Elementary),  
Thoothukudi,  
Thoothukudi District.

7. The Block Educational Officer,  
Pudur,  
Thoothukudi District.

... Respondents

**Prayer :** Writ Petition filed under Article 226 of the Constitution of India, praying this Court to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the Impugned Order in Na.Ka.No. 001180/E3/2023 dated 12.05.2023 on the file of the Respondent No.3 and quash the same as illegal in so far as transferring the petitioner on deputation instead of transfer and consequently for a direction, directing the Respondent No.3 to issue transfer Order to the petitioner to the post of Secondary Grade Teacher at Panchayat Union Primary School, Seetharkulam, Karunkulam Block, Thoothukudi District within a time period stipulated by this Court.

For Petitioner : Mr.T.Aswin Rajasimman  
for M/s.Lajapathi Roy Associates

For Respondents : Mr.N.Satheeshkumar  
Additional Government Pleader

### **ORDER**

Heard the learned counsel on either side.

2. The petitioner took part in the transfer counselling held in February 2022 and wanted to be posted as secondary grade teacher at Panchayat Union Primary School, Seetharkulam, Karunkulam Block,



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Thoothukudi District. However, it was allotted to one S.Senthil who ranked below the petitioner in the seniority list. He was treated under preferential category (widower). The petitioner proved that the said Senthil had made a false claim and suppressed his remarriage. Senthil was relieved. However, the petitioner was not posted in the resulting vacancy. That led to filing of W.P.(MD)No.21733 of 2022. Vide order dated 03.11.2022, the writ petition was allowed and the department was directed to post the petitioner in the said vacancy. Challenging the said order, the department filed W.A.(MD)No.171 of 2023. The writ appeal filed by the department was disposed of by the Hon'ble Division Bench on 20.03.2023 in the following terms:-

“8. Considering the serious objections raised by the learned counsel for the appellants, this Court is of the considered view that no other candidate challenged the transfer of Mr.Senthil vitiated by malafides except the respondent / writ petition. Also considering the fact that it will take more than a year to conduct the next general counselling and the School has a total strength of only 20 students, with only one HM and that the post of Secondary Grade Teacher is lying vacant, we are of the view that no prejudice will not be caused, if the respondent / writ petitioner is issued posting in the available vacancy at Panchayat Union Primary School, Seetharkulam, Karunkulam Block, Thoothukudi District till the next general transfer counselling. Thereafter, during the next general transfer counselling, it is open to the respondent / writ petitioner



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to participate in the counselling seeking her option to continue working in the said School.”

Pursuant to the said direction, the petitioner has been posted at Seetharkulam vide proceedings dated 12.05.2023. The grievance of the petitioner is that the petitioner has not been posted by way of transfer but by way of deputation. The learned counsel elaborated on the consequences that flow. He states that Seetharkulam would continue to be shown as vacant and that the petitioner may be displaced at any moment. Her service records would remain in the earlier place and not transferred to Seetharkulam. The learned Additional Government Pleader on the other hand would submit that what was directed by this Court as well as by the Hon'ble Division Bench was that the petitioner should be posted at Seetharkulam. Since this has been done, the petitioner cannot complain.

3. I carefully considered the rival contentions. On a careful reading of the entire order passed by the Hon'ble Division Bench, one can easily note that the Hon'ble Division Bench wanted to show indulgence to the writ petitioner because it was she who exposed the fraud committed by Thiru.S.Senthil. Secondly, the Hon'ble Division



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Bench took note of the fact that the transfer counselling will take more than a year to be conducted. The whole case was only about transfer. I had sustained the claim of the writ petitioner, since the Hon'ble Division Bench did not set aside my order. In these circumstances, posting the petitioner by deputation may not be correct. In any event, if the petitioner is not disturbed from Seetharkulam till the conclusion of the academic year, she also cannot have grievance. At the end of the academic year, Seetharkulam can be shown as vacant place and the petitioner can also take part in the counselling. She will be treated as a candidate from Kumarapalayam. The impugned order is not interfered with. The only direction that has been given is that the petitioner shall not be disturbed till the end of the current academic year.

4. The Writ Petition is disposed of accordingly. No costs. Consequently, connected miscellaneous petitions are closed.

**20.06.2023**

NCC : Yes/No  
Index : Yes / No  
Internet : Yes/ No  
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**G.R.SWAMINATHAN, J.**



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