



W.P.(MD)No.20534 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 23.08.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.20534 of 2023

K.Manisankar

... Petitioner

versus

1. The District Educational Officer,
(Private Schools),
Collectorate,
Tenkasi,
Tenkasi District.

2. The Principal,
Bharatha Mandir CBSE School,
Illanji,
Tenkasi,
Tenkasi District.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Mandamus, to direct the first
respondent to take action on the 2nd respondent to issue with the
Transfer Certificate of the petitioner's son Ashwin on the basis of the



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petitioner's representation dated 13.07.2023 within a time frame as stipulated by this Court.

For Petitioner : Mr.P.Rajkumar

For R1 : Mr.M.Sarangan,
Additional Government Pleader

For R2 : Mr.V.Kathirvelu,
Senior Counsel
for Mr.K.Jeyamohan

ORDER

The petitioner's son Ashwin was studying 6th std. in the second respondent School. While his son was going to the School, he was threatened by a person wearing burkha and therefore, he failed to attend the school. Therefore, the petitioner has requested to issue Transfer Certificate of his son Ashwin. However, the second respondent has refused to issue a Transfer Certificate and insisted the petitioner's son to continue his study in the same school. In this regard, the petitioner has submitted a representation before the first respondent on 13.07.2023 and also to other various authorities. But, there was no



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action on the said representation. Hence, the present writ petition has been filed for a Mandamus directing the first respondent 1 to take action on the second respondent to issue a Transfer Certificate of the petitioner's son Ahswin by considering his representation dated 13.07.2023.

2. The learned Additional Government Pleader, who takes notice for the first respondent, on written instructions, submits that the petitioner has submitted a representation before the District Collector on 26.06.2023 on the grievance day and the same has been forwarded to the first respondent for necessary action. The first respondent has also conducted an enquiry and found that the petitioner's son joined 6th standard in the second respondent School for the Academic Year 2022-2023, but, he did not attend the classes regularly and now, he wants to discontinue the School. Therefore, the petitioner insisted the second respondent School to issue a Transfer Certificate as if his son Ashwin has passed 6th standard. The second respondent is ready to



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issue a Transfer Certificate as “discontinued the 6th standard”.

However, the petitioner has insisted for a Transfer Certificate as “promoted from the 6th standard”. He further submits that on verification, it is found that the petitioner has only 18% of attendance for the whole academic year.

3. The learned Senior Counsel appearing for the second respondent School submits that the petitioner's son was having only 18% of attendance and therefore, transfer certificate cannot be issued as “promoted from the 6th standard”. He has also produced the attendance register of the petitioner's son Ashwin.

4. This Court considered the rival submissions and perused the materials available on record.

5. Admittedly, the petitioner's son was studying 6th standard in the second respondent School for the Academic Year 2022-23. Due to



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some untoward incident, he did not attend the school regularly. Now, the petitioner wants a Transfer Certificate of his son Ashwin as if he is promoted from the 6th standard. According to the learned Senior Counsel appearing for the second respondent School, the petitioner's son was having only 18% of attendance. Therefore, the transfer certificate cannot be issued as “promoted from the 6th standard”.

6. The second respondent School is governed by By-laws of the Central Board of Secondary Education, New Delhi. The admission of students on transfer is given under Rule 6.1(a) and 6.1(c) of the Bye-law and the same are extracted as under:

6.1. (a) A student seeking admission to any class in a 'School' will be eligible for admission to that Class only if he:

(i) has been studying in a School recognized by or affiliated to this Board or any other recognized Board of Secondary Education in India.

(ii) has passed qualifying or equivalent qualifying examination making him from eligible for admission to



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that Class;

(iii) satisfies the requirements of age limits (minimum and maximum) as determined by the State/U.T.Government and application to the place where the School is located.

.....

(c) Where a child above six years of age has not been admitted in any school or though admitted could not complete his or her elementary education, then, he or she shall be admitted in a class appropriate to his or her age

Provided that where a child is directly admitted in a class appropriate to his or her age, then, he or she shall, in order to be at par with others, have a right to receive special training, in such manner, and within such time-limits, as may be prescribed.

7. The Government of Tamil Nadu, vide G.O.Ms.No.173 School Education (C2) Department, dated 08.11.2011, has notified the Tamil Nadu Rights of Children to Free and Compulsory Education Rules, wherein, it has been stated as follows:

“Every child of the age of 6 to 14 years shall have a



right to free and compulsory admission, attendance and completion of education in a neighbourhood school.”

8. The petitioner's son was only studying in the 6th standard and the By-laws does not specifically state about the minimum requirement of attendance for the 6th standard student and the Government of Tamil Nadu by G.O.Ms.No.173, dated 08.11.2011 has made it mandatory that a child having age 6 to 14 years shall have a right to free and compulsory admission, **attendance** and completion of education in a neighbourhood school.

9. Even though the petitioner's son was having only 18% of attendance, in the absence of any specific rules, disqualifying the petitioner's son to get a transfer certificate as promoted from the 6th standard, this Court is inclined to allow this writ petition.

10. Accordingly, this writ petition is allowed with a direction to the second respondent to issue a Transfer Certificate to the petitioner's



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son as “promoted from the 6th standard, within a period of two weeks from the date of receipt of a copy of this order. No costs.

23.08.2023

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NCC : Yes / No.
Index : Yes / No.
Internet : Yes / No.

To

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Tenkasi District.
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B.PUGALENDHI, J.

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