



WEB COPY

W.P.No.18542 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.06.2024

CORAM :

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

W.P.No.18542 of 2023

S.Prathiba

.. Petitioner

VS

1.The Director of Public Instruction Officer,
Office of Director of Public Information Officer,
Sasthri Bhavan Bus Stop,
Haddows Road, Subba Road Avenue,
Nungambakkam,
Chennai, Tamil Nadu 600 006,
India.

2.The Principal,
Adarsh Vidya Kendra School,
Vetturnimadam, Nagercoil,
Kanyakumari District,
Pincode - 629 003.

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

4.Central Board of Secondary Education,
Rep. by its Director, Headquarters, Shiksha Kendra,
2, Community Centre, Preet Vihar, Delhi-110 092.

(R3 and R4 impleaded vide order dated 04.09.2023 made
in WMP.24607/2023 in WP.18542/2023)



W.P.No.18542 of 2023

5.S.Sivasakthi Ayyappan @ Esakkiappan
(R5 impleaded as per order dated 30.10.2023
in WMP.29689/2023 in WP.18542/2023)

.. Respondents

Petition filed under Article 226 of the Constitution of India praying to issue a writ of Mandamus to direct the respondents to issue Transfer Certificate to petitioner's son and daughter S.Sree Aadishwar and S.Koushika Sree by considering petitioner's representation dated 11.05.2023.

For Petitioner : Mr.M.Rakhi

For Respondents : Mr.M.Rajendran (for R1)
Additional Government Pleader
Mr.G.Nagarajan (for R3 and R4)
Mr.Sureshkumar (for R5)
No Appearance (for R2)

ORDER

The petitioner and the 5th respondent had been married for 13 years. On account of certain personal issues, the petitioner had left the matrimonial home and states that she is presently residing in Chennai along with her two children S.Sree Aadishwar (Male/14 years) studying in the 7th standard and S.Koushika Sree (Female/9 years) studying in the 4th standard.



W.P.No.18542 of 2023

2. Once in Chennai, she has enrolled the children in A.K.G. Public School (School). The school had sought the Transfer Certificate from the 2nd respondent, i.e., Adarsh Vidya Kendra School, Veturnimadam, Nagercoil, Kanyakumari District, where the children were studying when the petitioner was together with R5. However, that request has been rejected on account of the objections raised by R5 vide letter dated 20.02.2023.

3. R5 had stated in that letter that the children had been taken away without his knowledge and thus the school should not issue the Transfer Certificate or any other related certificates to the children. In such circumstances, R2, acting on letter dated 20.02.2023, has refused to give the documents to the petitioner.

4. The case of the petitioner is that the family dispute between herself and R5 should not stand in the way of the children's education and the two are separate and distinct. This Court agrees on that scope.

5. R5 has filed a petition seeking divorce, which is now listed before the Sub Court, Alandur. The petition has been filed as early as on 19.04.2023. However, it is relevant to note that the petition seeking custody of the children has been filed only on 31.05.2024, after 13 months from the date of seeking of divorce. In the interim period, the



W.P.No.18542 of 2023

custody of the children has been with the petitioner/mother and she is also taking care of their education.

6. While the matrimonial dispute between the petitioner and R5 will be decided on the merits of the matter by the concerned Judge, the fact that it is the petitioner who has held custody thus far and attended to the needs of the children, including their educational needs, must carry some weight.

7. This Court is also of the considered view that the parent who is in charge of the children and the children themselves must not be put to the embarrassment of repeated requests by the present school for obtaining documents from the former school, to which the children are entitled to. The only objection put forth by R2 is that there has been an objection by their father/R5.

8. Mr.M.Rajendiran, learned Additional Government Pleader appearing for R1/the Director of Public Instruction Officer, Chennai and Mr.G.Nagarajan, learned Counsel appearing for R3 and R4 being the Central Board of Secondary Education, Chennai and Central Board of Secondary Education, New Delhi would confirm the legal position that there is no embargo on the entitlement of the children to transfer of one school to another.



W.P.No.18542 of 2023

9. In such circumstances, mandamus is issued to R2 to furnish

Transfer Certificate to the petitioner's children S.Sree Aadishwar and S.Koushika Sree as per petitioner's representation dated 11.05.2023 within a period of two (2) weeks from date of receipt of a copy of this order.

10. It is made clear that nothing contained in this order will stand in the view of an impartial and independent adjudication of the divorce petition and the custody petition as and when they are taken up for hearing by the concerned Court and the same shall be disposed in accordance with law and on the strength of the submissions advanced by the parties.

11. Notice has been issued to R2, service is complete and description is printed in the cause-list. However there is no appearance. Let the petitioner accompanied by a copy of this order approach R2 for the return of the concerned certificates.

12. This writ petition is allowed in the above terms. No costs.

06.06.2024

Index:Yes/No
Neutral Citation:Yes
Speaking Order:Yes
mpl



W.P.No.18542 of 2023

DR. ANITA SUMANTH,J.
mpl

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- To
- 1.The Director of Public Instruction Officer,
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W.P.No.18542 of 2023

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