



W.P.(MD)No.23870 of 2022
and Cont.P.(MD)No.2735 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 27.11.2024

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.23870 of 2022
and Cont.P.(MD)No.2735 of 2024
and W.M.P.(MD)No.17940 of 2022

W.P.(MD)No.23870 of 2022

D.Shantha

... Petitioner

versus

1. The Commissioner of School Education,
Chennai – 600 006.
2. The Commissioner of Adi Dravidar Welfare,
Chennai – 600 005.
3. The State of Tamilnadu,
Rep. By the Principal Secretary to Government,
School Education Department,
Chennai – 600 009.

... Respondents

Writ Petition filed under Article 226 of the Constitution of India, seeking for the issuance of Writ of Certiorarified Mandamus, to call for the records of the impugned order in Na.Ka.No.004724/உபிள்யு2/இ1-2019 dated 17.06.2022 on the file of the 1st respondent and quash the same and further direct the respondents to keep one post vacant to the post of PG Assistant (Mathematics) in Government Higher Secondary School,



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Sivalingapuram, Rajapalayam Taluk, Virudhunagar District.

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For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.K.Balasubramani,
Special Government Pleader

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D.Shantha

... Petitioner

versus

1. Mr.K.Nanthakumar, I.A.S.,
The Commissioner of School Education,
Chennai – 600 006.

2. Mr.Kakarla Usha, I.A.S.,
The Principal Secretary to Government,
School Education Department,
Chennai – 600 009.

... Respondents

Contempt Petition filed under Section 11 of the Contempt of Courts Act 1971, to punish the Contemnors for their willful disobedience of the order of this Court passed in W.M.P.(MD)No.17940 of 2022 in W.P.(MD)No.23870 of 2022 dated 17.10.2022.

For Petitioner : Mr.G.Prabhu Rajadurai
For Respondents : Mr.G.V.Vairam Santhosh,
Additional Government Pleader

COMMON ORDER

The petitioner was selected as PG Assistant in the School Education Department, pursuant to the Notification/Advertisement No.3 of 2012 dated

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28.02.2012. However, she has been accommodated as PG (Assistant) in the Adi Dravidar Welfare Girls Higher Secondary School, which does not come within the purview of the School Education Department. Therefore, the petitioner has filed several writ petitions before this Court. Finally, this issue was concluded by a Division Bench of this Court in W.A.No.2090 of 2019 on 23.12.2020 with a direction to the respondents to accommodate the petitioner in the School Education Department based on the affidavit filed by her, forgoing her seniority in the School Education Department. Pursuant to the order of this Court in W.A.No.2090 of 2019, the petitioner was directed to participate in the counselling conducted on 27.04.2022 for the vacancies in the School Education Department. The petitioner has also participated in the counselling on 27.04.2022 and found that the vacancies shown in the counseling are all far away districts and there was no vacancy in Virudhunagar District. Therefore, the petitioner, by a letter dated 27.04.2022, submitted that she is not willing to participate in the counseling dated 27.04.2022. By recording the letter dated 27.04.2022, the first respondent, by his proceedings dated 17.06.2022, passed an order that the request of the petitioner to transfer her from the Adi Dravidar School to any



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one of the Schools run by the School Education Department cannot be considered. Challenging the same, the present writ petition has been filed.

2. The learned counsel appearing for the petitioner submits that the petitioner was selected only for the School Education Department. However, she was accommodated in the Adi Dravidar School against the Notification dated 28.02.2012. Therefore, the petitioner has agitated the issue by filing writ petitions. Finally, this issue was decided by a Division Bench of this Court in W.A.No.2090 of 2019. Before, the Division Bench of this Court, the first respondent/School Education Department has taken a stand that in the event if the petitioner is opting for transfer from Adi Dravidar School to the School Education Department, then, she has to forego her seniority in the School Education Department. The first respondent has also filed an affidavit to that effect on 31.07.2019. Based on the affidavit filed by the first respondent on 31.07.2019, the Division Bench of this Court directed the petitioner to file an affidavit to forego her seniority in the School Education Department. The petitioner has also filed an affidavit to that effect as directed by this Court on 21.12.2020. Thereafter, the Division Bench of this Court, by Judgment dated 23.12.2020, directed



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the respondents to accommodate the petitioner in the school Education Department, as per her affidavit dated 21.12.2020. Pursuant to the same, the petitioner was called for participating in the counselling said to have been conducted on 27.04.2022. However, there was no vacancy in Virudhunagar District. Therefore, the petitioner, by a letter dated 27.04.2022, has expressed her unwillingness to participate in the counselling. By referring the letter dated 27.04.2022, the request of the petitioner for transfer from Adi Dravidar School to the School Education Department was rejected in toto by the order impugned in this writ petition. Therefore, the petitioner has approached this Court.

3. The learned Special Government Pleader submits that pursuant to the order of the Division Bench of this Court in W.A.No.2090 of 2019 dated 23.12.2020, the petitioner was given an opportunity to participate in the transfer counselling conducted on 27.04.2022. But, the petitioner has submitted a letter dated 27.04.2022 expressing her unwillingness to participate in the counselling. Based on the petitioner's letter dated 27.04.2022, the impugned order dated 17.06.2022 was issued by the first respondent. Therefore, there is no reason to interfere with the impugned



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order.

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

5. Admittedly, the petitioner was selected as PG (Assistant) for the School Education Department. However, she was accommodated in the Adi Dravidar School, against the Notification dated 28.02.2012. The petitioner has questioned the same by filing several writ petitions before this Court and finally, the Division Bench of this Court, in W.A.No.2090 of 2019, based on the affidavit filed by the petitioner that she will forego her seniority in the School Education Department, issued a direction to the respondents to accommodate the petitioner in the School Education Department, as per her affidavit dated 21.12.2020, which is extracted as under:

7. The learned counsel appearing for the respondent/writ petitioner submitted that the writ petitioner is ready to forego her seniority in the transferred Department. To that effect, the respondent/writ petitioner had also filed an affidavit dated 21.12.2020 before this Court, relevant portion



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of the same reads as follows:

“4. I respectfully submit that on 31.07.2019, the 1st appellant filed an affidavit before this Hon'ble Court by stating that if any vacancies arise, my claim would be considered without seniority benefits, which is clearly stated in 7 of the affidavit filed by the 1st appellant. Therefore, I undertake to forego my seniority and also the 3rd appellant has issued no objection letter on 05.04.2019 to relieve me from the ADW Department. Now, there are several vacancies available in School Education Department and therefore my claim would be considered based on the affidavit of the 1st Appellant.”

Thereafter, the respondents called the petitioner to participate in the transfer counselling said to have been conducted on 27.04.2022. But, the petitioner, by a letter dated 27.04.2022, expressed her concern that there was no vacancy in Virudhunagar District.

6. The right of the petitioner to be accommodated in the School Education Department, which has been confirmed by this Court in W.A.No. 2090 of 2019 by Judgment dated 23.12.2020, cannot be taken away. Therefore, the impugned order dated 17.06.2022 issued by the first



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respondent is liable to be set aside.

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7. Accordingly, W.P.(MD)No.23870 of 2022 is allowed and the impugned order dated 17.06.2022 issued by the first respondent is hereby set aside. Since it is reported that there is no vacancy in the School Education Department in Virudhunagar District, the respondents shall consider the case of the petitioner and permit her in the transfer counselling in future vacancies in Virudhunagar District in the School Education Department.

8. In view of the order passed by this Court in W.P.(MD)No.23870 of 2022, Cont.P.(MD)No.2735 of 2024 is also closed. No costs. Consequently, connected miscellaneous petition is closed.

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



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To
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B.PUGALENDHI, J.

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