

W.A(MD) No.1734 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 26.06.2025

CORAM

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
AND
THE HONOURABLE MR.JUSTICE K.RAJASEKAR**

W.A(MD) No.1734 of 2025

and

C.M.P.(MD)No.9642 of 2025

S.Saraswathi

... Appellant / Petitioner

Vs.

**1.The Joint Director of Elementary
Education (Administration),
College Road,
Chennai-600 006.**

**2.The District Elementary Educational Officer,
Allinagaram,
Theni District.**

... Respondents / Respondents

PRAYER: Writ Appeal filed under Clause 15 of Letters Patent, praying
this Court to set aside the order passed by this Court dated 17.06.2025 in
W.P.(MD)No.6015 of 2025.

**For Appellants : Mr.G.Prabhu Rajadurai
for Mr.J.Peer Mohammed**



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W.A(MD) No.1734 of 2025

For Respondents : Mr.C.Venkatesh Kumar
Special Government Pleader

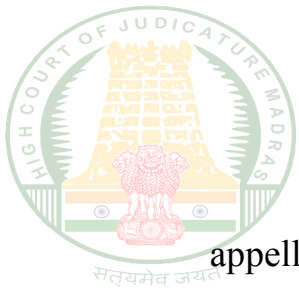
ORDER

(Order of the Court was made by **G.R.SWAMINATHAN, J.**)

Heard both sides.

2. The appellant herein was working as Block Educational Officer in Periyakulam. Vide order dated 24.02.2025 passed by the Joint Director of Elementary Education, Chennai, she was transferred to Nagercoil. Challenging the same, the appellant filed W.P.(MD)No.6015 of 2025. The learned single Judge citing the decision of the Hon'ble Supreme Court reported in **(2011) 12 SCC 137 (Registrar General, High Court of Judicature of Madras Vs. R.Perachi)** dismissed the writ petition. Challenging the same, this writ appeal has been filed.

3. The learned counsel for the appellant states that the appellant is a widow. Her only son is now serving in the Indian Army. She has an unmarried daughter to support. The learned counsel appearing for the



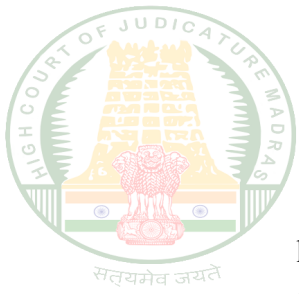
W.A(MD) No.1734 of 2025

appellant drew our attention to quite a few decisions in which it has been held that transfer cannot be a matter of punishment or made under punitive circumstances.

5. From the materials available on record, we are able to note that allegations were made against the appellant and a sort of preliminary enquiry was conducted and only thereafter, the impugned order of transfer came to be made. The Hon'ble Supreme Court of India in the decision reported in **(2009) 2 SCC 592 (Somesh Tiwari Vs. Union of India & others)** had held as follows:-

“19. Indisputably an order of transfer is an administrative order. There cannot be any doubt whatsoever that transfer, which is ordinarily an incident of service should not be interfered with, save in cases where inter alia mala fide on the part of the authority is proved. Mala fide is of two kinds - one malice in fact and the second malice in law.

20. The order in question would attract the principle of malice in law as it was not based on any factor germane for passing an order of transfer and based on an irrelevant ground i.e. on the allegations made against the appellant in the anonymous complaint. It is one thing to say that the employer is entitled to pass an order of transfer in administrative exigencies but it is another thing to say that the order of transfer is passed by way of or in lieu of punishment. When an order of transfer is passed in



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W.A(MD) No.1734 of 2025

lieu of punishment, the same is liable to be set aside being wholly illegal.”

6. At the same time, taking note of the overall facts and circumstances, we are of the view that it may not be in the interest of administration to permit the appellant to serve in Periyakulam itself. It is stated that at present, there is a vacancy in the post of Block Educational Officer in Uthamapalayam. The first respondent is directed to issue fresh proceedings posting the appellant at Uthamapalayam. The intervening period shall be adjusted against the leave available in her credit.

7. The Writ Appeal is disposed of accordingly. No costs. Consequently, connected miscellaneous petition is closed.

(G.R.S., J.) (K.R.S., J.)
26.06.2025

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Index : Yes / No
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W.A(MD) No.1734 of 2025

WEB COPY

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W.A(MD) No.1734 of 2025

G.R.SWAMINATHAN, J.
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rmi

W.A(MD) No.1734 of 2025

26.06.2025