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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.06.2026**

CORAM:

THE HONOURABLE **MR.JUSTICE N.SATHISH KUMAR**
AND

THE HONOURABLE **MR.JUSTICE M.JOTHIRAMAN**

WA.(MD)Nos.157 & 184 of 2026

and

CMP.(MD)Nos.1596, 3342, 1914 & 1915 of 2026

WA.(MD)No.157 of 2026

The Corporate Management
Rep.by its Manager/Secretary
Board of School Education
C.S.I.Diocesan Office,
71-A, Dennis Street,
Nagercoil,
Kanyakumari District-629 001.

... Appellant

Vs.

1.V.Nisha

2.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

3.The District Educational Officer,
Nagercoil, Kanyakumari District.

4.The Correspondent,
Duthie Girls Higher Secondary School,
Nagercoil-629 001,
Kanyakumari District.



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5.The Correspondent,
LMS Higer Secondary School,
South Thamaraikulam,
Kanyakumari District-629 701.

6.D.Lizza Rajakumari

7.Church of South India,
Kanyakumari Diocese,
No.71A, Dennis Street, Nagercoil,
Nagercoil Village, Agastheeswaram Taluk,
Kanyakumari District.

... Respondents

PRAYER:- Writ Appeal filed under Clause 15 of the Letters Patent
against the order passed in WP.(MD)No.16656 of 2025 dated 09.01.2026.

For Appellant : Mr.SC.Herold Singh

For R1 : Mr.Isaac Mohanlal,
Senior Counsel,
for M/s.Isaac Chambers

For R2 & R3 : Mr.B.Saravanan,
Senior Counsel,
for Mr.M.P.Senthil,
Counsel for State

WA.(MD)No.184 of 2026

D.Lizza Rajakumari

... Appellant

Vs.

1.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.



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3.The Corporate Management,
Rep.by its Manager/Secretary
Board of School Education,
C.S.I. Diocesan Office,
71-A, Dennis Street, Nagercoil,
Kanyakumari District-629001.

4.The Correspondent,
Duthie Girls Higher Secondary School,
South Tamaraikulam,
Kanyakumari District-629701.

5.The Correspondent,
LMS Higer Secondary School,
South Tamaraikulam,
Kanyakumari District.

6.Nisha

... Respondents

PRAYER:- Writ Appeal filed under Clause 15 of the Letters Patent
against the order passed in WP.(MD)No.16656 of 2025 dated 09.01.2026.

For Appellant : Mr.S.Chella Pandian

For R1 & R2 : Mr.B.Saravanan,
Senior Counsel,
for Mr.M.P.Senthil,
Counsel for State

For R6 : Mr.Isaac Mohanlal,
Senior Counsel,
for M/s.Isaac Chambers



COMMON ORDER

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(Common Order of the Court was made by **M.JOTHIRAMAN, J.**)

Under assail is the order passed in WP.(MD)No.16656 of 2025 dated 09.01.2026. For the sake of convenience, the parties shall be referred to as per their rank in WA.(MD)No.157 of 2026.

2.Originally, the first respondent/writ petitioner challenged the impugned order passed by the appellant dated 05.06.2025 transferring the first respondent to fifth respondent School/LMS Girls Higher Secondary School, South Thamaraiikulam and consequential relieving order issued by the fourth respondent School/Duthie Girls Higher Secondary School, Nagercoil, dated 05.06.2025.

3.It is the case of the first respondent/writ petitioner that she was working as Physical Education Teacher in the fourth respondent School. She got initial appointment as Physical Education Teacher on 14.07.2011. Her appointment has been approved and she was receiving salary under Grant-Aid scheme. In the year 2013, a vacancy arose in the LMS girls Higher Secondary School, Neyyoor, due to the transfer of the then incumbent, namely B.Iyda. After taking the consent of the first



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respondent/writ petitioner, the appellant transferred her to LMS Girls Higher Secondary School, Neyyoor, vide proceedings dated 23.02.2013.

In the year 2016, another vacancy arose in the fourth respondent School due to the retirement of one M.Thangakamala. After getting application from the first respondent/writ petitioner on 04.05.2016, the appellant transferred her from LMS Girls Higher Secondary School Neyyoor to the fourth respondent School vide proceeding dated 09.07.2016. Thereafter, she was continuously serving in that School. While so, the post of Physical Director which is the promotional post to the post of PET in the fourth respondent School fell vacant in the year 2020. The first respondent/writ petitioner claims that she is a fully qualified candidate serving in the same School and submitted an application to the appellant and the fourth respondent. However, one S.Nikitha came to be appointed directly as a Physical Director by way of direct recruitment with effect from 16.09.2020 denying promotional opportunities to the existing incumbents. Such appointment by way of direct recruitment is contrary to the procedure set out in the Rule 15(4) of the Tamil Nadu Recognised Private Schools (Regulation) Rules, 1974. While so, in the month of January 2025, the fourth respondent insisted the first respondent/writ petitioner to give a letter to relinquishing her right of



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promotion to the post of Physical Director and she rejected the same.

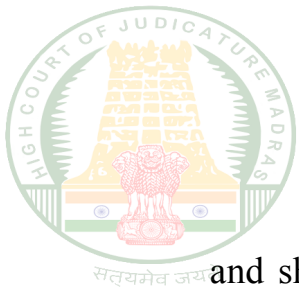
Since the proposal of approval of appointment of the said S.Nikitha came to be returned by the concerned authority. Again the appellant and fourth respondent started to compel the first respondent/writ petitioner to give the letter in order to get the approval of appointment of the said S.Nikitha. The first respondent/writ petitioner denied to give such letter. However, the appellant and the fourth respondent continued to threat to give letter of relinquishment. While so, she was suffering from ailment and admitted in the hospital on 01.05.2025 and discharged on 05.05.2025. She was advised to take complete rest and hence, she applied medical leave for 23 days from 03.06.2025 to 25.06.2025, vide letter dated 02.06.2026 along with medical records. While she was on medical leave, on 09.06.2026, she received the impugned order of transfer. Aggrieved over the same, she filed the above writ petition. The learned Writ Court allowed the writ petition and directed to reinstate her into the fourth respondent School on the ground that the impugned order of transfer is vitiated by malice in law. Challenging the same, the third respondent therein has preferred the writ appeal in WA.(MD)No.157 of 2026. Similarly, aggrieved over the same, the sixth respondent therein had preferred the writ appeal in WA.(MD)No.184 of 2026.



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4.The learned counsel appearing for the appellant in WA. (MD)No.157 of 2026 would submit that the first respondent had been working in fourth respondent for several years and only for having better administration, the impugned order of transferring the writ petitioner came to be passed where the vacant has been existing almost for one year had been passed. The appellant has all the authority under its constitution for effecting transfer, which is an essential conditions as a matter of right as promotions are to be made based on the merit and ability and not merely seniority. As the service of the writ petitioner was required in fifth respondent School, the writ petitioner had been transferred on administrative exigencies and cannot claim continue in the same School.

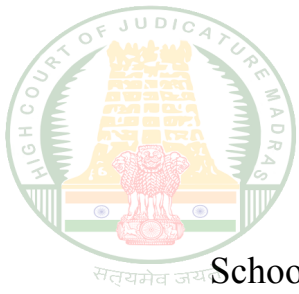
5.The learned counsel appearing for the appellant in WA. (MD)No.184 of 2026 is reiterating the submissions made by the learned counsel appearing for the appellant in WA.(MD)No.157 of 2026. Further, he would submit that the appellant/D.Lizza Rajakumari, who had been rendered surplus in another School, which is under the third respondent in writ petition, was posted in the fourth respondent School



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and she has also joined on 05.06.2025. He would also submit that the appellant/D.Lizza Rajakumari had all along been travelling between her place of work and residence without any mean time to spend with her family. Transfer being incidental to service, the first respondent/V.Nisha cannot claim a right to continue to work in the very same place, where she had been appointed.

6.Per contra, the learned Senior Counsel appearing for the first respondent/writ petitioner/V.Nisha would submit that there is specific averments had been made by the writ petitioner in her affidavit, particularly, in paragraph Nos. 11, 12 & 13 with regard to her being called upon to give a relinquishment letter of her promotion to the post of Physical Education Director and also regarding the proposal returned by the authority in January 2025, calling upon the fourth respondent to submit along with the proposals approval, the letter of relinquishment of the incumbent Physical Education Director. The said averments had not been met by the appellant in his counter affidavit filed before the learned Writ Court either by denying such allegations or countering such allegations. This would clearly establish that there is a malice in passing the impugned order of transfer her from where she is working to another



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School without any valid reasons. Such transfer had been made only with an intention to complete the requirements of the third respondent herein for grant of approval of appointment of directly recruited Physical Education Director.

7.We have considered the submissions made by the learned counsel appearing on either side and perused the materials available on record.

8.It is the case of the writ petitioner that the impugned order of transfer came to be passed only on malice as the writ petitioner has refused to relinquish her right to be considered for promotion to the post of Physical Education Director, which was filled up by way of direct recruitment in the fourth respondent School by the appellants.

9.It is seen from the records with regard to the contention raised by the writ petitioner that the transfer has been made on malice in her affidavit filed before the learned Writ Court, particularly, in paragraph Nos.11, 12 and 13, wherein, it has been stated as follows:-

11.While so, in the month of January 2025, the



4th respondent Correspondent insisted me to give a letter to relinquishing my right of promotion to the post of Physical Direction and I rejected outright. I also submitted a representation on 27.01.2025 to the 3rd respondent through the 4th respondent requesting not to compel me to give any such letter.

12.It is learnt that such insistence was made as the 2nd respondent DEO while considering the proposal of approval of appointment of S. Nikitha had found that there was nothing on record regarding the eligible candidates serving in the very same school for promotion and consideration of their candidature for such promotion. Hence, the DEO returned the proposal vide proceedings in OM.Mu.No. 1239/AA2/2024 dated --.01.2025 directing the school to resubmit the proposal along with the letter from the existing Physical Director Teacher serving in the school under the Corporate Management relinquishing their promotion or their unwillingness for promotion to the post of Physical Director.

13.I submitted that as the proposal got returned, again the 3rd and 4th respondent started to compel me to such letter in order to get the appointment of S. Nikitha approved. In view of such continuous harassments, I submitted representation to the Rev. Bishop of the Diocese



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on 06.02.2025 explaining the above fact and requested the Rev. Bishop to instruct the 3rd and 4th respondents not to take any such letters of relinquishment of promotion and also met the 3rd and 4th respondent in person and explained that though I am not standing in the way against the appointment made in the post of Physical Director without considering my candidature it is not possible for me to give letter relinquished to the promotion. Similar representations were also submitted to the District Collector on 08.02.2025 and CEO on 14.02.2025, 18.03.2025 and 31.03.2025. However, the 3rd and 4th respondent continued to wield threat to give the letter of relinquishment. I did not yield to such illegal demand.

In paragraph No.8 of the counter affidavit filed by the appellant, it has been stated as follows:-

8.The averments contained in para 10 to 13 need not be traversed. The averments contained in para 14 were all to the exclusive knowledge of the petitioner. With regard to the averments contained in para 15, since it is held that the services of the petitioner is much required to the 5th respondent school, the order of transfer was passed and there is no illegality and arbitrariness and there is no malafide as alleged at paragraph 16 in as much as the transfer is not only a condition of service but incident of service.



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10. A careful reading of the averments made in the affidavit and counter affidavit reveals that the averments made by the writ petitioner had not been met out by the appellant herein, in his counter affidavit either by denying such allegations or countering such allegations. In such circumstances, it would not be open to the appellant herein to raise any disputed factual aspects in that regard. It is also revealed that such transfer order came to be passed only with an intention to complete the requirements of the third respondent herein for grant of approval to the post of directly recruited Physical Educational Director as the appellant has not specifically denied with regard to the malice contended by the writ petitioner. In such circumstances, the appellant was duty bound to provide the details relating to the appointment made to the post of Physical Education Director. No such details have been placed before the learned Writ Court or before this Court. When the impugned orders of transfer and reliving itself is a malice one, the sixth respondent/D. Lizza Rajakumari cannot seek any prayer as a matter of right. Therefore, we are of the view that there is no infirmity in the findings of the learned Writ Court that the impugned order of transfer is vitiated by malice in law. There is no merits in these writ appeals and the same are liable to be dismissed.



11.In the result, these writ appeals are dismissed. No costs.

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Consequently, connected miscellaneous petitions are closed.

[N.S.K., J.] & [M.J.R., J.]
03.06.2026

Index :Yes/No
Internet :Yes
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To

1.The Chief Educational Officer,
Nagercoil, Kanyakumari District.

2.The District Educational Officer,
Nagercoil, Kanyakumari District.



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**N.SATHISH KUMAR, J.
AND
M.JOTHIRAMAN, J.**

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WA.(MD)Nos.157 & 184 of 2026

03.06.2026