

THE HONOURABLE SMT JUSTICE V. SUJATHA

WRIT PETITION No.19618 of 2023

ORDER:-

The writ petition is filed by the petitioner under Article 226 of the Constitution of India seeking the following relief:

"...to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus, declaring the order of transfer issued to the petitioner by the 3rd respondent in RC No.55/B1/2023 dated 15.06.2023 by transferring her from M.P.U.P. School, Seetharampuram, Nuzivid Mandal and posted to Z.P.H.S. Kolletikota, by rejecting her genuine grievance, which is contrary to the provisions of G.O.M.S.No.117 dt.10.06.2022 and G.O.M.S. No.47, dated 22.05.2023 without taking factual data of enrolment without its reconfirmation by placing the same before the District Transfer Committee, as arbitrary, unreasonable, without authority and unjust and thus to set aside the same"

2. The case of the petitioner, in brief, is that prior to the year 2020, the petitioner was working in Borrapothupalem M.P.U.P. School as School Assistant (S.A.) and her husband was also working in Education Department as L.F.L. Headmaster in M.P.P. School, Krutivenu Mandal, Krishna District. The petitioner was transferred to Sitarampuram M.P.U.P. School at request, on the basis of spouse point, the nearest place to the working place of her husband. The petitioner has been working for the last 2½ years at M.P.U.P. School, Seetharampuram, therefore, she was entitled to

continue at that place for 5/8 years on the spouse working ground as per Rules.

3. It is further submitted that the District Transfer Committee was provided with the enrollment date that stood as 31.08.2022 but was not provided with the factual enrolment data of the academic year 2022-23 or 2023-24. As the transfers that took place are based on the enrollment of the school as on 31.08.2022 but not in terms of the standards prescribed in the G.O.No.117, dated 10.06.2022, the transfer orders dated 15.06.2023 are challenged by the by way of submitting a representation dated 21.06.2023 to the 3rd respondent requesting him to reconsider his transfer as the same was not in accordance with the enrolment data of the academic year 2022-23 or 2023-24. But, however, the same was rejected by way of the impugned order dated 03.07.2023. Challenging which, the present Writ Petition is filed.

4. It is further submitted that at para 10(II) of G.O.Ms.No.47 dated 22.05.2023, there is a direction that the total enrollment data of the school shall be reconfirmed by the competent authority after field level verification with approval

of the respective committees. This provision of the Rule is totally bypassed and transfers are affected. In such a case, the petitioner is not liable to be transferred on reapportionment principle. But, without considering the same the 3rd respondent issued the impugned order of transfer dated 15.06.2023 by transferring the petitioner from the present M.P.U.P. School Stiarampuram to Z.P.H.S. Kolletikota, Kaikaluru Mandal. Hence, the petitioner filed a representation on 21.06.2023 to the 3rd respondent which was rejected vide R.C.No.55/B1/2023 dated 03.07.2023 without considering the facts and rule position as prescribed in G.O.Ms.No.117, dated 10.06.2022 and G.O.Ms.No.47, dated 22.05.2023 and without assigning any reasonable grounds.

5. Heard Sri P.Narasimha Rao, learned counsel for the petitioner and learned Government Pleader for Services I for the respondents 1 to 3 as well as learned Government Pleader for Services III appearing for the respondent No.4.

6. On a perusal of the affidavit, it is clear that the 3rd respondent, by way of the impugned order has not passed any speaking orders as to why the transfers took place basing on the enrolment of the school as on 31.08.2022 instead of

the enrollment date of the academic year 2022-2023 or 2023-2024 as well as in terms of the standards prescribed in the G.O.No.117, dated 10.06.2022. The said fact was also admitted by the learned Government Pleader for Services I.

7. Considering the submissions made by both the counsel and on perusal of the rejection order dated 03.07.2023, this Court feels it appropriate to Allow the writ petition by setting aside the proceedings of the 3rd respondent dated 03.07.2023 by remanding the matter back to the 3rd respondent for fresh consideration of petitioner's representation dated 21.06.2023. The said exercise shall be completed within a period of four (4) weeks from the date of receipt of a copy of this order.

8. Accordingly, writ petition is allowed. There shall be no order as to costs.

Miscellaneous petitions pending, if any, in this writ petition shall stand closed.

SMT JUSTICE V. SUJATHA

Date: 08.08.2023
Pnr

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Dated 08.08.2023

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