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Writ Appeal No.4112 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 18.04.2024

PRONOUNCED ON : 04.06.2024

CORAM

**THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR. JUSTICE K.KUMARESH BABU**

**Writ Appeal Nos.4112 & 4115 of 2019 &
CMP.Nos.26243, 25695 & 25704 of 2021**

K.Sekar

... Appellant in both W.As

Vs

1. Interim Administrator,
Pachaiyappa's Trust,
Pachaiyappa's College Campus,
113, Harrington Road,
Chennai -600 030.
2. The Director of Collegiate Education,
Chennai – 600 006.
3. The Secretary
Pachayappa's Trust
Pachayappa's College Campus,
113, Harrington Road,
Chennai – 600 030.
4. Nanthini,
College Committee,
Pachayappa's Trust
Pachayappa's College Campus,



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113, Harrington Road,
Chennai – 600 030.

5.P.Arulmozhichelvan,
College Committee,
Pachayappa's Trust
Pachayappa's College Campus,
113, Harrington Road,
Chennai – 600 030.

6.C.Rajendran
College Committee,
Pachayappa's Trust
Pachayappa's College Campus,
113, Harrington Road,
Chennai – 600 030.

7.N.Shettu,
College Committee,
Pachayappa's Trust
Pachayappa's College Campus,
113, Harrington Road,
Chennai – 600 030.

... Respondents in W.A.No.4112 of 2019

1.Interim Administrator,
Pachaiyappa's Trust,
Pachaiyappa's College Campus,
113, Harrington Road,
Chennai -600 030.

2.Thiru.R.Janakiraman
Advocate, Enquiry Officer,
No.11, Leonord Street, Royapettah,
Chennai – 600 014.

3.The Secretary
Pachayappa's Trust
Pachayappa's College Campus,



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113, Harrington Road,
Chennai – 600 030.

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4.The Director of Collegiate Education,
Chennai – 600 006. ... Respondents in W.A.No.4115 of 2019

PRAYERS: Writ Appeals have been filed under Clause 15 of Letter Patent against the common order dated 31.10.2019 made in W.P.No.16761 & 28451 of 2019.

For Appellant : Mr.G.Murugendran

For Respondents : Mr.D.Ravichander (Spl., G.P.) for
RR2 in W.A.No.4112 of 2019
and RR4 in W.A.No.4115 of 2019

Mr.M.R.Jothimanian for RR1, 3to 7 in
W.A.No.4112 of 2019 and RR1 to 3

COMMON JUDGMENT

(Judgment of the Court was made by Mr.K.KUMARESH BABU., J)

The instant Intra Court Appeals have been filed by the unsuc-
cessful Writ Petitioner in rejecting his challenge to the charge memo dated
23.05.2019 and the appointment of the enquiry officer to enquire into the
charges that had been framed against him.

2.Heard Mr.G.Murugendran learned counsel appearing the ap-
pellant, Mr.D.Ravichander learned Special Government Pleader appearing



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for Director of Collegiate Education and Mr.M.R.Jothimanian learned counsel appearing for the Pachayappas Trust.

3.The learned counsel appearing for the appellant would submit that the appellant had joined the services of Pachayappas College in the year 1989 and had been subsequently promoted as Superintendent. By an order passed by this Court in O.A.No.283 of 2018, the first respondent herein was appointed for conducting the elections of the Trust Board. In his functioning as an interim Administrator, the first respondent had issued a charge memo which is not within the jurisdiction to issue. He would also assail the charges by contending that he had not participated in the strike abandoning his official work of incharge of the University examination. He would submit that the charges framed against him were all without any basis and therefore, he would seek to set aside the charge memo issued against him as well as the order of appointing the Enquiry Officer, as the same is without jurisdiction and without any materials. He would submit that the learned Single Judge without considering the facts in its proper perspective as regards to the jurisdiction of the first respondent had held that the Interim Administrator has empowered to initiate disciplinary proceedings against the appellant. He would submit that the learned Single Judge had also relied upon the judg-



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ment of the Hon'ble Apex Court reported in **(2006) 12 SCC 28**, which would not be applicable to the facts of the case. He would heavily contend that the first respondent had unilaterally without any authority had issued a charge memo which is contrary to the provisions of the Tamil Nadu Private Colleges Regulation Act and the Rules framed thereunder. Hence he would seek interference with the order passed by the learned Single Judge.

4.Countering his arguments, Mr.M.R.Jothimanian, the learned counsel appearing for the respondents 1, 3 to 7 would contend that the Interim Administrator had been appointed not only to conduct the elections, but also to administer the Board till the elections are over and the new Board of Trustees take charge. He would further submit that the College Committee as approved as provided under the Tamil Nadu Private Colleges Regulation Act and the Rules, in its meetings held on 18.01.2019, 15.04.2019 and 17.05.2019, had taken a decision to initiate disciplinary proceedings not only against the appellant, but also against various other persons. Only pursuant to the College Committee's Resolution to take appropriate action, the first respondent/Interim Administrator had issued a charge memo and only on not being satisfied with the explanation given by the ap-



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pellant, the first respondent had appointed an Enquiry Officer. There-
fore, he would submit that the Interim Administrator had full authority to
initiate disciplinary proceedings against the employees of the Trust Board as
well as the Pachaiyappa College. He would further submit that the
appellant being a member of the College Committee had signed a dissent
note of Resolutions and therefore, he cannot feign ignorance of the Resolu-
tion passed by the College Committee. In such view of the matter, he would
submit that there is no infirmity or error passed by the learned Single Judge.

5.The learned Special Government Pleader appearing on behalf of the
official respondent would reiterate the submissions made by the learned
counsel appearing on behalf of the Pachaiyappa Board, Trust and College
and would further submit that there was no error apparent on the record for
this Court to interfere with the order passed by the learned Single Judge.

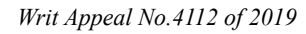
6.We have heard the rival submissions made by the learned
counsels appearing on either side and perused the materials placed on
record.



7.The pivotal contention of the learned counsel appearing for the appellant is that the Interim Administrator did not have the authority to issue the charge memo and any proceedings could only be initiated as per the provisions of the Tamil Nadu Private Colleges Regulation Act and its Rules.

8.The order of appointment of an Interim Administrator had been made by this Court by its order, dated 14.06.2018, in O.A.No.283 of 2018 and Application No.2624 of 2018. The terms of the said order clearly indicates that the Interim Administrator shall take charge of Management of the Pachaiyappa's Trust and shall administer the Board till the elections are over. The Management of Pachaiyappa's Trust includes the administrations of the Pachaiyappa's College.

9.It has also been brought on record that the College Committee in its various meetings had taken a decision to initiate the disciplinary proceedings against the persons involved in various misfeasance and maladministration of the Trust. Only pursuant to such a Resolution passed by the College Committee headed by the Interim Administrator under the provisions of the Tamil Nadu Private Colleges Regulation Act and its Rules,



12. It is to be noted that the Interim Administrator had already resigned and a new Administrator is in charge of the day to day proceedings of the Trust Board, apart from being empowered to conduct the election. In such view of the matter, since the Enquiry Officer appointed by the then Interim Administrator, who is the second respondent in one of the appeals wishes to



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continue his task, the Enquiry Officer shall forthwith conduct the enquiry and submit a report within a period of 12 weeks from the date of receipt of a copy of this order.

13.If he desires not to continue, the present Administrator of the Trust shall immediately appoint a new Enquiry Officer to conduct the enquiry into the charges that had been framed by the then Interim Administrator and conclude the disciplinary proceedings and see that the disciplinary proceedings are concluded as expeditiously as possible not later than six (6) months from the date of receipt of a copy of this order.

14.With the aforesaid directions, these Writ Appeals are dismissed. However, there shall be no order as to costs. Consequently, connected Miscellaneous Petitions are closed.

(D.K.K.,J.)

(K.B., J.)

04.06.2024

Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation:Yes/No
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D.KRISHNAKUMAR.,J.
and
K.KUMARESH BABU.,J.

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To

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