

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

**THE HONOURABLE MR.JUSTICE ANTONY DOMINIC
&
THE HONOURABLE MR. JUSTICE SHAJI P.CHALY**

TUESDAY, THE 26TH DAY OF MAY 2015/5TH JYAISHTA, 1937

W.A.No. 1004 of 2015 () IN WP(C).17603/2013

**AGAINST THE ORDER IN WP(C) 17603/2013 OF HIGH COURT OF KERALA DATED
09-04-2015**

APPELLANT(S)/PETITIONER:

**RAJU B.,
PHYSICAL EDUCATION TEACHER,
BHAVANS VIDYA MANDIR,
ELAMAKKARA, ERANAKULAM.**

**BY ADVS.SRI.T.A.SHAJI (SR.)
SRI.M.A.ASIF
SMT.NAMITHA JYOTHISH**

RESPONDENT(S)/RESPONDENTS:

- 1. THE BHARATIYA VIDYA BHAVAN,
MINSHI SADAN, BHARATHIYA VIDYA CHOWK,
KULAPATI K.M.MUNSHI MARG , MUMBAI 400007.
REPRESENTED BY ITS PRESIDENT.**
- 2. THE BHARATIYA VIDYA BHAVAN, KOCHI KENDRA, TD ROAD.,
ERNAKULAM KOCHI 682 011
REPRESENTED BY ITS SECRETARY.**
- 3. SRI.E.RAMANKUTTY, DIRECTOR, BHARATIYA VIDYA BHAVAN,
KOCHI KENDRA, TD ROAD, ERNAKULAM,
KOCHI 682 011.**
- 4. SMT.NIRMALA VENKATESWARAN,
PRINCIPAL, BHAVANS VIDYA MANDIR, GIRINAGAR,
KOCHI 682 020.**

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**5. THE CENTRAL BOARD OF SECONDARY EDUCATION,
SHIKSHA KENDRA, 2
COMMUNITY CENTRE , PREET VIHAR, DELHI 110 092.
REPRESENTED BY ITS CHAIRMAN.**

**6. THE REGIONAL OFFICER,
CENTRAL BOARD OF SECONDARY EDUCATION REGIONAL OFFICE,
NEW NO.3 (OLD NO.1630A) J-BLOCK, 16TH MAIN ROAD,
ANNA NAGAR WEST CHENNAI 600 040.**

**7. THE PRINCIPAL,
BHAVANS VIDYA MANDIR, ELAMAKKARA, KOCHI 682 026.**

**R1-R4 & R 7 BY ADV. SMT.LATHA KRISHNAN, STANDING COUNSEL.
R5 & R6 BY SRI.DEVAN RAMACHANDRAN, SC, CBSE**

**THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 26-05-2015, THE
COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

P.T.O.

**ANTONY DOMINIC
&
SHAJI P. CHALY, JJ.**

W.A. No.1004 OF 2015

Dated this the 26th day of May, 2015

JUDGMENT

Antony Dominic, J.

The appellant filed the writ petition seeking to challenge Exts.P19 and 21, memo of charges issued against him and an order appointing an advocate as the enquiry officer. In the writ petition, this Court passed an order dated 22.08.2014, staying further proceedings pursuant to Exts.P19 and 21. Subsequently, by order dated 09.04.2015, the learned Single Judge modified the interim order, permitting continuance of the enquiry, but ordering that penalty, if any, shall not be imposed without obtaining orders of this Court. It is challenging the order dated 09.04.2015, this appeal is filed.

2. We heard the Senior Counsel appearing for the appellant, learned counsel appearing for respondents 1 to 4 and 7 and the learned Standing Standing Counsel appearing for respondents 5 and 6.

3. The learned Senior Counsel referred to Ext.P19 and contended that there is absolutely no basis for the memo of charges that is issued. He also contended that in the factual circumstances pointed out, the appellant cannot expect an impartial enquiry or unbiased attitude from the disciplinary authority. Therefore, according to the learned counsel, there is no justification in permitting the disciplinary authority and the enquiry officer to continue the enquiry pending disposal of the writ petition. These contentions are refuted by the learned counsel appearing for the respondents.

4. The writ petition was filed at a stage when memo of charges was issued against the appellant, alleging misconducts against him and when an enquiry officer was appointed to enquire into the misconducts. On the materials now available, we are not in a position to find that the memo of charges is issued by an incompetent authority or that it does not disclose any misconduct. The issues regarding partiality and bias are premature to be accepted. In such a situation, this Court could not have interdicted the continuance of the enquiry. It was therefore the learned Single Judge has passed the impugned order, which at the same time, protects the interests of the

appellant by directing that punishment shall not be imposed without obtaining orders from this Court. Such being the case, we are unable to see any illegality in the view taken by the learned Single Judge, the appeal fails and it is accordingly dismissed.

Sd/-

**ANTONY DOMINIC
JUDGE**

Sd/-

**SHAJI .P. CHALY
JUDGE**

//true copy//

P.S. to Judge

St/-