

In the High Court of Judicature at Madras

Dated: 16.06.2015

Coram:

The Hon'ble Mr.Justice SATISH K. AGNIHOTRI
and
The Hon'ble Mr.Justice M.VENUGOPAL

W.A.No.578 of 2015 and
M.P.No.1 of 2015

The Secretary and Correspondent
The Quaide Milleth College for Men
Medavakkam, Chennai - 600 100 ..Appellant/2nd Respondent

Vs.

1. Selvi ..Respondent/Petitioner
2. Director of Collegiate Education,
Government of Tamilnadu
EVK Sampath Building 9th Floor,
College Road, Chennai - 600 034 ..Respondent/1st
Respondent

Prayer: Writ Appeal filed under Clause 15 of the Letter Patent
Appeal against the Order of this Court dated 01.07.2014 made in
W.P. No. 29906 of 2013.

Writ Petition filed under article 226 of the Constitution of
India praying for the issuance of writ of declaration, declaring
that the order of suspension passed by the 2nd respondent in
reference No. Rc.QMC/2013/DP/KS/980 dated 28.10.2013 is null and
void illegal and abuse of its power.

For Appellant : Mr.R.Narendran

For Respondent

No.1 : Mr.A.Sirajudeen
No.2 : Mr.P.S.Sivashanmugasundaram
Special Government Pleader

JUDGMENT

[Judgment of the Court was Delivered By
M.VENUGOPAL, J.]

The Appellant / 2nd Respondent has focused the instant intra
court Writ Appeal before this Court as against the order dated
01.07.2014 passed by the Learned Single Judge in W.P.No.29906 of
2013.

2.The Learned Single Judge while passing the order dated
01.07.2014 in W.P.No.29906 of 2013 had ultimately ordered the
<https://hcservices.ecourts.gov.in/hcservices/>

Appellant/2nd Respondent /College to pay the subsistence allowance to the 1st Respondent/Petitioner, at the rate of half of the pay, for a period of two months, and thereafter, to pay full salary without insisting upon 'Non Employment Certificate' within a period of four weeks from the date of receipt of copy of this order and further directed to pay subsistence allowance till enquiry was completed and final order was passed in the disciplinary proceedings.

3.The Learned Counsel for the Appellant/2nd Respondent submits that the Learned Single Judge failed to appreciate that in the Writ Petition, no relief was sought for in respect of subsistence allowance and therefore, passing of such an order is capricious, arbitrary one and opposed to all principles of Natural Justice and Equity.

4.The Learned Counsel for the Appellant/2nd Respondent urges before this Court that the Learned Single Judge had failed to take into consideration that the Appellant/College is minority one and further it is governed by the Tamilnadu Private Colleges (Regulation) Act and as well as the Tamilnadu Private Colleges (Regulation) Rules. Moreover, some of the ingredients of the Provisions of the said Act and Rules are not applicable to the Appellant/College, in as much as it is minority one.

5.The Learned Counsel for the Appellant projects an argument that the main Writ Petition was filed by the 1st Respondent/Petitioner only to declare her suspension as null and void and the relief was granted beyond the scope of Writ Petition. Also that there was no whisper or claim about the salary and allowances in the Writ Petition filed by the 1st Respondent/Petitioner and as such, an order passed was outside the scope of the Writ Petition.

6.Yet another submission of the Learned Counsel for the Appellant is that the Order passed by the Learned Single Judge in the Writ Petition is vitiated because of the non-application of mind to the fact in issue and further the Impugned Order passed in the Writ Petition is a laconic and almost a non-speaking one and consequently it is to be set aside because of an inherent weakness.

7.The Learned Counsel for the Petitioner strenuously proceeds to contend that the Learned Single Judge had committed an error in placing the reliance of Fundamental Rules and infact, the salary is paid by the Government, because of the fact that the Appellant is an Aided Minority Institution.

8.The Learned Counsel for the Appellant takes a stand that the Learned Single Judge's finding in non-seeking on 'Non Employment Certificate' from the 1st Respondent/Petitioner violates a Code of Conduct as specified under Section 12(1) Tamilnadu Private Colleges (Regulation) Rules.

9.Lastly, it is the submission of the Learned Counsel for the Appellant that the Appellant being an Appointing Authority have necessary powers to take Action against the erring employees and the observation of the Learned Judge that the Appellant /College has no powers to suspend the 1st Respondent/Petitioner is a incorrect one in the Eye of Law.

10.At this juncture, it is submitted on behalf of the Respondents that the 1st Respondent/Petitioner is willing to provide Non-Employment Certificate (Certificate of not engaged in any other employment) during the period of her suspension without any payment.

11.In view of the above fact that the 1st Respondent/Petitioner is willing to provide Non-Employment Certificate during her suspension period without any payment, this Court, directs the Appellant/2nd Respondent/College to pay the subsistence allowance to the 1st Respondent/Petitioner and thereafter to pay the entire full salary to her on submission of Non-Employment Certificate within a period of four weeks from the date of receipt of copy of this Order. Further, this Court directs that the Appellant/2nd Respondent/College shall continue to disburse subsistence allowance till the enquiry is over and final order is passed in the Disciplinary Proceedings.

With the afore said observations and directions the Writ Appeal stands disposed of. There shall be no order as to costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar

True Copy

Sub Assistant Registrar

To

1. The Secretary and Correspondent
The Quaide Milleth College for Men
Medavakkam, Chennai - 600 100

2. Director of Collegiate Education,
Government of Tamilnadu
EVK Sampath Building 9th Floor,
College Road, Chennai - 600 034

+2 cc's to Mr.R.Narendran, Advocate,Sr.29393 & 29316

+1 cc to Mr.A.Sirajudeen, Advocate,SR.29313.

Gj (co)
krd 29/6

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