

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.04.2015

CORAM:

THE HON'BLE MR. JUSTICE SATISH K. AGNIHOTRI

AND

THE HON'BLE MR. JUSTICE M. VENUGOPAL

W.A. No.657 of 2015 and M.P. Nos.1 and 2 of 2015

The Secretary
T.V.K. Higher Secondary School
Shenoy Nagar
Chennai - 600 030

Appellant

vs.

- 1 T. Jayarani
- 2 The Director of School Education
College Road
Chennai - 600 006
- 3 The Chief Educational Officer
Saidapet
Chennai - 600 015
- 4 The District Educational Officer
Chennai North
Chennai

Respondents

Writ Appeal preferred under Clause 15 of the Letters Patent challenging the order dated 16.03.2015 passed in W.P. No.23922 of 2014.

Petition presented under Article 226 of the Constitution of India praying for issuance of a writ of certiorarified mandamus calling for the entire records pertaining to the impugned charge Memo in Na.Ka.No.123/D.P/2014, dated 01.08.2014 and impugned suspension order in Rc.No.123/dated 1.08.2014 of the 4th respondent and to quash the same and consequently direct the 4th respondent to reinstate the petitioner in the post of Assistant Headmistress of the said school with full attendant benefits (full salary) including suspension period for the petitioner.

For appellant Mr. Satish Parasaran

For R1

Mr. Perumbulavil Radhakrishnan

JUDGMENT

(Judgment of Court was delivery by SATISH K. AGNIHOTRI, J.)

With the consent of the learned counsel for the parties, the instant writ appeal is taken up for final disposal. For the sake of brevity and clarity, the parties are referred to as per their litigative status in the instant appeal.

2 This intra-Court appeal is directed against the order dated 16.03.2015 rendered in W.P. No.23922 of 2014. By the said order which is sought to be impugned in this appeal, the suspension order passed against the first respondent was set aside and the appellant was directed to reinstate the first respondent into service. In the said order, there was a further direction to the appellant to conclude the enquiry proceedings initiated against the first respondent, within a period of four months. Challenging the said order, the fourth respondent in the writ petition, has preferred the instant appeal.

3 The learned counsel for the appellant submits that the appellant has no grievance insofar as revocation of suspension by the impugned order and also, the direction given therein to reinstate the first respondent into service. However, since, during the pendency of the writ petition, the enquiry was concluded and the charges levelled against the first respondent were also proved, a decision was taken to dismiss her from service. The file, in this connection, is pending with the Government and no decision has been taken by the Government, so far. However, on a second thought, the appellant has decided to re-consider the imposition of nature of punishment, on the basis of the enquiry report.

4 The learned counsel for the first respondent submits that the appellant is free to re-consider the imposition of punishment, however, if the punishment to be imposed happens to be more grievous than the punishment already proposed to be imposed, then, the first respondent is entitled to an opportunity of hearing. Also, if any order is passed adversely affecting the first respondent, she may be given liberty to question the validity of the same, before the appropriate forum.

5 Be that as it may, insofar as the right of the first respondent to question the order to be passed, there can be no dispute in this regard and she is always at liberty qua the same. Likewise, the appellant is always at liberty to re-consider the nature of punishment proposed to be imposed on the first respondent. However, we make it clear that we are not directing holding of a fresh enquiry, which had already been completed and recommendation, on the basis of the same, has been made.

6 Resultantly, the writ appeal stands disposed of with the above observations. No costs. Connected Miscellaneous Petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

cad
To

1 The Director of School Education
College Road, Chennai - 600 006

2 The Chief Educational Officer
Saidapet, Chennai - 600 015

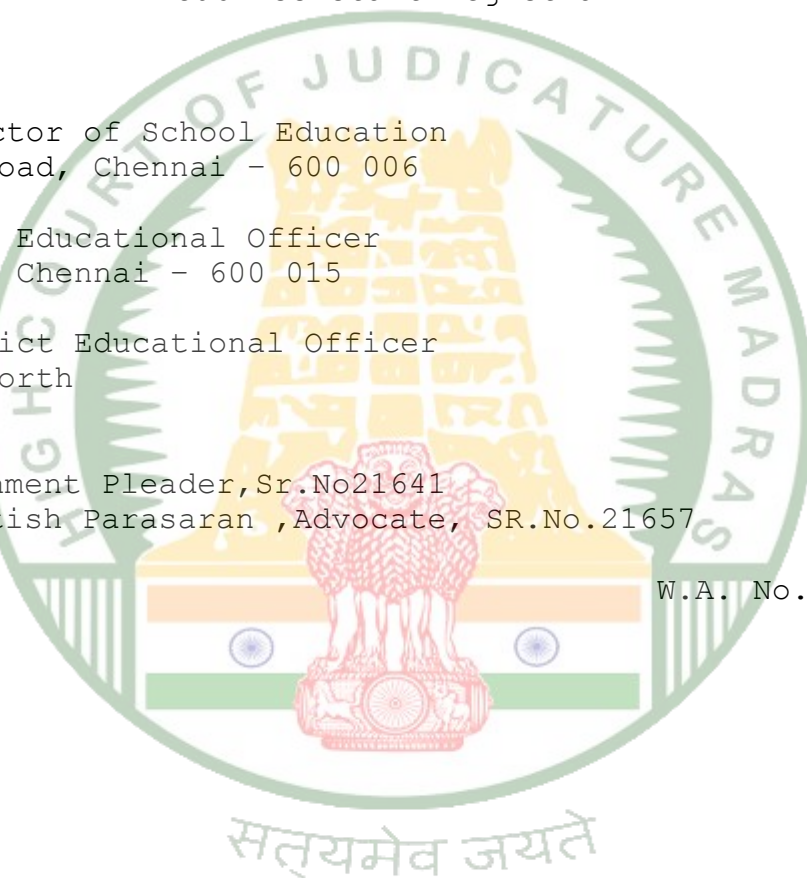
3 The District Educational Officer
Chennai North
Chennai

1 cc to Government Pleader, Sr.No.21641

1 cc to Mr.Satish Parasaran ,Advocate, SR.No.21657

W.A. No.657 of 2015

mp(co)
pmk.13.5.2015



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