

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2015

CORAM:

THE HON'BLE MR.JUSTICE D. HARIPARANTHAMAN

W.P.No.31667 of 2014
& M.P.No.1 of 2014

Selvi

.. Petitioner

vs.

1. The Enquiry Officer,
No.223, New Additional Law Chambers,
High Court, Chennai - 104.
2. The Secretary and Correspondent,
The Quaide Milleth College for Men,
B-14, 2nd Floor, Mahadevan Apts,
305, TTK Road, Alwarpet,
Chennai - 18.

.. Respondents

PRAYER : Petition filed under Article 226 of the Constitution of India for the issuance of Writ of Certiorarified Mandamus calling for the records relating to the order passed by the first respondent dated 19.11.2014 and quash the same and consequently direct the first respondent to permit the petitioner to engage a lawyer of her choice to defend in the departmental enquiry against her and also conduct the enquiry in a place outside the place of the second respondent.

For Petitioner : Mr.A.Sirajudeen

For Respondent : NA for R1
Mr.Mohamed Ghouse

O R D E R

The petitioner is a Sweeper employed in the second respondent College, Aided College. A disciplinary enquiry is pending against her. The issue is relating to the change of venue and the assistance of a lawyer to assist her in the enquiry at her cost.

2. When the matter is taken up for hearing today, learned counsel for the College has submitted that venue is changed, as requested by the petitioner.

3. The next issue is about the assistance of a lawyer. Though initially the College was hesitant to permit the petitioner to

have the assistance of a lawyer, when this Court pointed out that since the college has appointed an Assistant Professor of Commerce to present the case of the college it is better to permit the petitioner to engage a counsel, he has agreed for the same.

4. The learned counsel for the petitioner has also brought to my notice that the enquiry officer is a retired District Judge, who is also a practicing Lawyer before this Court. He relied on the judgment of the Apex Court in Professor Ramesh Chandra V. University of Delhi, reported in 2015 (2) MLJ 219. It is relevant to extract paragraph 30 of the said judgment as hereunder :

"30. In view of the law laid down by this Court, we are of the view that if any person who is or was a legal practitioner, including a retired Hon'ble Judge is appointed as Inquiry Officer in an inquiry initiated against an employee, the denial of assistance of legal practitioner to the charged employee would be unfair."

5. In these circumstances, learned counsel for the College management has come forward to permit the petitioner to engage a counsel at her cost. The same is recorded.

6. The learned counsel for the second respondent college has represented that the College could also be permitted to have the assistance of a Lawyer as a presenting officer. It is left to the discretion of the College to have an Advocate to represent their case before the Inquiry Officer.

7. Since, both sides agreed to complete the enquiry before three months, the Inquiry Officer is directed to complete the enquiry within a period of three months from the date of receipt of a copy of this order.

8. Accordingly, this writ petition is disposed of. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

True Copy

Sub Assistant Registrar

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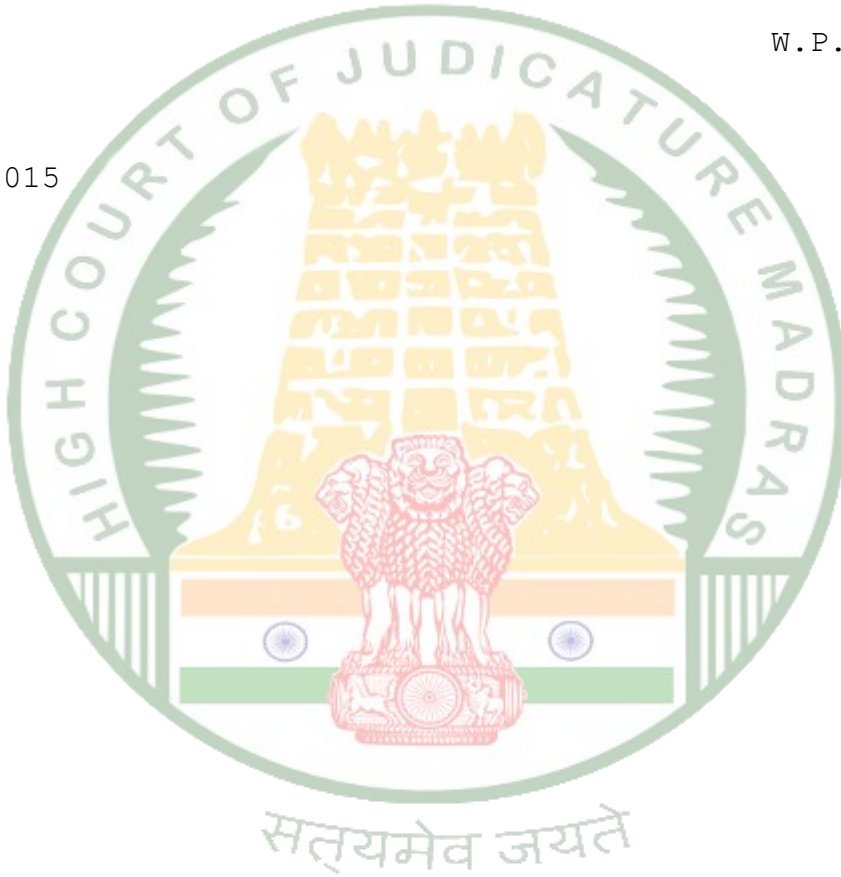
To

The Enquiry Officer,
No.223, New Additional Law Chambers,
High Court, Chennai - 104.

1 cc to Mr.A.Sirajudeen , Advocate Sr.No.29780
1 cc to Government Pleader.Sr.No.29822
1 cc to Mr..Mohamed Ghouse , Advocate Sr.No.29780

W.P.No.31667 of 2014

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