

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.08.2016

CORAM

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Writ Petition No. 2510 and 2511 of 2011  
and  
C.R.P. (PD) No. 624 of 2014

Durai Ezhilan .. Petitioner in WP No.2510  
and 2511 of 2011

Versus

1. The Aruna Sugars Higher Secondary  
School  
represented by its Secretary  
Eraiyur, Pennadam  
Cuddalore District
2. The Joint Director of School Education  
(Higher Secondary)  
DPI Campus, College Road  
Chennai - 600 006
3. The Tribunal (1st Assistant Judge,  
City Civil Court) .. Respondents in WP No.  
Chennai - 600 104 2510 and 2511 of 2011

CRP (PD) No. 624 of 2014

1. Gnanajothy
2. Silambuselvan
3. Durai Ezhilan .. Petitioners/Defendants

Versus

1. Aruna Sugars Factory Higher Secondary  
School  
represented by its Secretary  
Eraiyur, Tittakudi Taluk  
Cuddalore District

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2. Aruna Higher Secondary School  
Managing Association  
represented by its Secretary  
No.16, Kamarajar Street  
Pennadam  
Cuddalore District

.. Respondents /Plaintiffs

WP No. 2510 of 2011:- Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the third respondent culminating in order dated 30.10.2010 in C.M.A. No. 66 of 2009 and consequently the order of dismissal dated 13.03.2014 issued by the first respondent and quash the said orders and further direct the first respondent to disburse all retirement benefits to the petitioner together with interest at 18% per annum treating the petitioner had attained superannuation in the normal course of service, on the normal date of retirement.

WP No. 2511 of 2011:- Petition filed under Article 226 of The Constitution of India praying for a Writ of Certiorarified Mandamus calling for the records of the third respondent culminating in order dated 30.10.2010 in C.M.A. No. 131 of 2009 and consequently the order of dismissal dated 13.03.2014 issued by the first respondent and quash the said orders and further direct the first respondent to disburse all retirement benefits to the petitioner together with interest at 18% per annum treating the petitioner had attained superannuation in the normal course of service, on the normal date of retirement.

CRP (PD) No. 624 of 2014:- Revision filed under Article 227 of The Constitution of India against the order dated 23.09.2013 passed in I.A. No. 246 of 2013 in O.S. No. 161 of 2014 passed by the learned Principal Subordinate Judge, Vriddachalam.

For Petitioners :Mr. G. Sundaram  
in both the Writ Petitions  
and Civil Revision Petition

For Respondents :Mrs. Hema Sampath, Senior Counsel  
for Ms. Meenal for R1  
in both the Writ Petitions  
and R1 and R2 Civil Revision Petition

Mr. A. Kumar, Special Government Pleader  
for R2 in both the Writ Petitions  
R3-Tribunal

## COMMON ORDER

As per the order dated 16.12.2014 passed by the Honourable Chief Justice, these writ petitions as well as the Civil Revision Petition are taken up together and are disposed of by this common order. Further, the issue involved in both the writ petitions as well as the Civil Revision Petition are interconnected with each other and therefore they are tagged together for joint disposal.

2. For the sake of convenience, the parties to these cases are referred to as per their litigative status in the writ petitions.

3. For disposal of these cases, certain facts which are absolutely essential are stated thus:-

(i) The petitioner was a holder of Ph.D. degree. He joined the first respondent School in the year 1973 as Tamil Pandit and promoted as Headmaster during the year 1989. It is claimed that the petitioner discharged his duties meritoriously and he was a recipient of the Best Teacher Award conferred by the Government during the year 1999-2000. On 04.10.1999, there was a change in the management of the first respondent school and the new management represented by its Secretary took over the affairs of the school. After the new management took over, the petitioner was forced to resign his job which was refused by him since he had left over service of only two years. According to the petitioner, for some obvious reasons, the management of the first respondent school subjected him to harassment and humiliation in some form or the other and there were dispute between the petitioner and the management. According to the petitioner, as he refused to resign his job, the management got provoked and restrained the petitioner indirectly from peacefully discharging his duties. Ultimately, on 27.04.2002, the first respondent school management issued a charge memo to the petitioner for which a reply dated 03.05.2002 was given by him. On receipt of the explanation from the petitioner, by order dated 03.06.2002, he was suspended from service. Thereafter, by a proceeding dated 27.09.2002 of the first respondent, an enquiry was proposed to be conducted against the petitioner.

(ii) Challenging the order of suspension dated 27.04.2002, the petitioner has filed WP No. 20960 of 2002 by contending that it is the school committee which is authorised

to frame charges and to conduct an enquiry and the management of the school is incompetent to do so. Pending writ petition, the petitioner filed W.P.M.P. No. 28988 of 2002 and it was dismissed. Challenging the same, the petitioner has filed W.A. No. 3046 of 2002 before this Court. By Judgment dated 07.10.2002, the Division Bench of this Court observed that there was no valid authorisation or resolution of the School Committee to enable the Secretary of the School to place the petitioner on suspension. However, the Division Bench of this Court, without expressing any opinion on merits, directed the respondents therein to conduct the enquiry after giving an opportunity to the petitioner within two months. A further direction was given to the school management to pay salary and other emoluments to the petitioner till the conclusion of the enquiry.

(iii) Pursuant to the order dated 07.10.2002 passed in WA No. 3046 of 2002, the petitioner submitted his explanation dated 21.10.2002 to the charge memo. Thereafter, the school management conducted an enquiry between 16.11.2002 to 20.12.2002. On conclusion of the enquiry, the enquiry officer submitted his report on 26.12.2002. According to the petitioner, the enquiry was conducted by none other than Mr. Siva Thiagarajan, one of the committee members of the School management and that the enquiry officer was not specifically authorised by the school committee to conduct the enquiry. Further, one Mr. Sivarama Sethu was appointed as the management representative to participate in the enquiry and he was also not authorised by the School Committee specifically to act as management representative. Further, all the members of the management committee have participated in the enquiry against the petitioner namely Mr. Sivarasethu, Mr. C. Murugesan Pillai and Mr. S. Nilavan deposed against the petitioner. It is the specific contention of the petitioner that he was humiliated during the enquiry proceedings by the committee members and that the enquiry was a farce.

(iv) Based on the report dated 26.12.2002 of the enquiry officer, a second show cause notice dated 27.12.2002 was given to the petitioner specifically indicating that a decision was taken by the school committee to dismiss him from service. The petitioner submitted his reply dated 09.01.2003 to the second show cause notice. When the school management sent a proposal to the Chief Educational Officer for dismissing the petitioner from service, it was refused by the Chief Educational Officer on the ground that the enquiry was not conducted properly. As against the same, the school management preferred an appeal to the Joint Director of School Education, who has reversed the order passed by the Chief Educational Officer. Thereafter, the school management passed an order dated 13.03.2004 dismissing the petitioner from service.

(v) Challenging the order of dismissal dated 13.03.2004, the petitioner has filed WP No. 9249 of 2004. During the pendency of the writ petition, the school management initiated action for recovering the salary paid to the petitioner during the period of suspension on the strength of an order passed by the District Educational Officer on 18.09.2006 for recovering the amount. Challenging the order dated 18.09.2006 passed by the District Educational Officer, the petitioner filed WP No. 37756 of 2006. The school management also filed WP No. 1469 of 2007 to recover the amount from the petitioner. All the above three writ petitions were taken up for hearing. By a common order dated 16.04.2007, this Court disposed of the writ petitions holding that as against the order of dismissal, the petitioner has to file an appeal as contemplated under Section 23 of the Tamil Nadu Private School Regulations Act. As regards the writ petition relating to recovery of amount, this Court rejected the contention of the school management by holding that the question of making any recovery from the salary of the petitioner does not arise and it is contrary to the Act and Rules.

(vi) Pursuant to the order passed by this Court, the petitioner filed a Statutory Appeal before the Joint Director of School Education as against the order of dismissal. By order dated 02.07.2008, the Joint Director of School Education remanded the matter back to the school with a direction to place the matter before the School Committee for awarding appropriate punishment to the petitioner inter alia holding that the punishment of dismissal from service is not appropriate. In the said order dated 02.07.2008, the Joint Director of School Education has also observed that the petitioner has accepted the charges and therefore he has to be dealt with accordingly. Challenging the order dated 02.07.2008, the petitioner filed WP No. 17846 of 2008 and it was disposed of by this Court on 03.04.2009 with a direction to exhaust the appeal remedy provided under Section 24 of the Act. Thereafter, the petitioner filed C.M.A. No. 66 of 2009 before the City Civil Court, Madras challenging the order dated 02.07.2008 of the Joint Director of School Education. The management of the School also filed C.M.A. No. 131 of 2009 as against the very same order dated 02.07.2008 of the Joint Director of School Education. The learned I Assistant Judge, City Civil Court, Chennai by a common judgment dated 30.10.2010 dismissed the appeal preferred by the petitioner while allowing the appeal preferred by the school management. Challenging the order dated 30.10.2010 passed in the aforesaid Civil Miscellaneous Appeals, the petitioner has filed the above two WP No. 2510 and 2511 of 2011.

(vii) In the meantime, the school management filed O.S. No. 161 of 2004 before the Principal Subordinate Judge, Vriddachalam to declare the sale deeds in favour of the petitioner, his wife and son as null and void and for recovery of possession. Pending suit, the defendants therein filed I.A. No. 161 of 2004 for reopening the suit for examination of some witness. The said application was dismissed on 23.09.2013 against which CRP (PD) No. 624 of 2014 has been filed.

4. A counter affidavit has been filed on behalf of the School Management contending that the relief sought for in the writ petitions are frivolous and vexatious. When the present management has taken charge, they have unearthed certain irregularities committed by the petitioner which resulted in framing of charges and conducting enquiry to prove the charges. During the course of enquiry, the petitioner has admitted most of the charges levelled against him. The charges include misappropriation of funds of the school and remitting it in a bank account opened in the name of the petitioner. Further, the petitioner was charge sheet for having taken possession of the land belonged to the school in which a hostel is functioning. The third charge relate to purchase of 1.74 acres of school land from the previous management in the name of the petitioner's wife and his son without even paying any amount to the management of the school. The charge also include the abusing language used by the petitioner towards the Secretary of the School. In order to prove these charges, an enquiry was conducted in which the petitioner was given adequate opportunity to defend him. Therefore, the petitioner, having participated in the enquiry, cannot be allowed to contend that the enquiry was not conducted in a manner known to law or the enquiry is a farce. After conducting an enquiry, it was decided that the continuance of the petitioner in the management of the school will be detrimental to it's functioning. Further, the petitioner, at the fag end of trial in the civil suit has filed the application to recall some of the witnesses. The court below rightly dismissed the application for recalling the witness. Such an application has been filed by the petitioner only to drag on the proceedings. Therefore, the respondents prayed for dismissal of the writ petitions as well as the Civil Revision Petitions.

5. The learned counsel for the petitioner would vehemently contend that the manner in which the school management has conducted the enquiry is vitiated for non-adherence to the established procedures contemplated under the law. It is further contended that the enquiry was not conducted after obtaining necessary approval from the school committee. In other words, it is the school committee which is competent to

frame charges and to suspend the petitioner from service pending contemplation of enquiry into grave charges as has been contemplated under Section 18 (1) (c) of the Tamil Nadu Recognised Private School (Regulations) Act, 1973 (hereinafter called as the Act). Therefore, the framing of charges, order of suspension passed against the petitioner, the conduct of enquiry and the order of dismissal passed against him are vitiated. There was no resolution passed by the school committee authorising the school management to conduct the enquiry. Even the representative of the management, who participated in the enquiry, has not been specifically authorised by the school committee. This was also pointed out by the Division Bench of this Court in W.A. No. 3048 of 2002 in the Judgment dated 07.10.2002 specifically observing that there was no resolution passed by the school committee authorising the Secretary of the School to place the petitioner under suspension. The learned counsel for the petitioner further brought to the notice of this Court that the enquiry officer appointed to conduct the enquiry was none other than a member of the school management. All the members of the school management have participated in the enquiry and deposed against the petitioner. The Civil Court which has passed the impugned orders has not dealt with the various points raised by the petitioner but only considered the violation to Section 14 (2) (a) of the Act.

6. The learned counsel for the petitioner would further vehemently contend that even though the Joint Director of School Education, in his order dated 02.07.2008 observed that the punishment of dismissal from service is not appropriate, has erroneously observed that the petitioner has admitted the charges. Such an observation was made without any basis. The petitioner has never admitted the charges and in fact opposing the charges levelled against him as false and frivolous. Such an observation made by the Joint Director of School Education has been held to be proper by the Civil Court while passing the common judgment in the Civil Miscellaneous Appeals. The appellate authority has misread the deposition of the witnesses and the explanation offered by the petitioner to the charge memo which would clearly indicate that the petitioner has never admitted the charges framed against him. The learned counsel for the petitioner therefore prayed for allowing the writ petitions.

7. As regards the Civil Revision Petition, the learned counsel for the petitioner would contend that the learned Principal Subordinate Judge failed to take note of the fact that unless the petitioners/defendants therein are permitted to examine the witnesses on their side, they could not effectively defend the suit filed by the school management. In such view of

the matter, in order to afford an opportunity to the petitioners/defendants therein to put forth their defence effectively, he prayed for allowing the Civil Revision Petition as prayed for.

8. The learned counsel for the petitioner relied on the decision of this Court in the case of (C. Ranganathan vs. The President/Secretary of School Committee, Maruthamalai Sri Subramanya Devasthanam Higher Secondary School, Coimbatore and another) reported in 1997 2 Law Weekly 872 wherein it was held that the order of suspension and the charge memo therein are without jurisdiction inasmuch as it was passed by the Secretary of the School Committee and there was no reference to the resolution passed by the school committee. It was further held that the School Committee is a creature under the Tamil Nadu Private Schools (Regulation) Act 29 of 1974 and such committee has to meet as prescribed in Rule 14 and no meeting of the School Committee shall be conducted unless atleast 7 days clear notice in writing has been given to the members.

9. For the very same proposition, the learned counsel for the petitioner also relied on the Full Bench decision of this Court in the case of (K.M. Valliappan vs. Joint Director of School Education (Higher Education) and appellate authority, College Road, Nungambakkam, Chennai - 6 and another) reported in 2006 (4) CTC 471 wherein it was held that initially enquiry was conducted by the School Committee and subsequently before finalisation, it was entrusted to a Sub-Committee. It was further held that some of the witnesses sat as Members of the School Committee, took a decision and also participated in the ultimate decision making process. In such circumstances, the Full Bench held that such proceedings of the School Committee became vitiated because and it will not have the force of law.

10. The learned Senior counsel appearing for the management of the school would contend that the petitioner has participated in the enquiry without raising any objection as to the jurisdiction of the enquiry officer. During the course of such enquiry, the petitioner has admitted most of the charges. Having regard to the nature of the charges against the petitioner and the fact that the petitioner has admitted some of the charges levelled against him during the course of enquiry, the order of dismissal is the appropriate punishment awarded to the petitioner. Such punishment imposed on the petitioner cannot be said to be excessive or harsh. In support of her contention, the learned Senior counsel relied on the decision of the Honourable Supreme Court in the case of (National High School, Madras vs. Education Tribunal and another) reported in 1992 Supp (3) Supreme Court Cases 106 to contend that when the petitioner has not raised any objection as regards the conduct of enquiry and participated in the enquiry without any demur, he

is estopped from contending that the enquiry was not conducted in a manner known to law.

11. The learned Senior counsel for the first respondent/management also relied on the decision of the Honourable Supreme Court in the case of (Additional District Magistrate (City) Agra vs. Prabhakar Chaturvedi and another) reported in (1996) 2 Supreme Court Cases 12 to contend that when the petitioner admitted some of the charges relating to misappropriation of the amount and other delinquency, the punishment of dismissal from service is appropriate and it cannot be construed to be disproportionate. Further, in such circumstances, interference of this Court under Article 226 of The Constitution is not warranted.

12. I heard the learned counsel for the petitioner, learned Senior counsel appearing for the management of the school and the learned Special Government Pleader appearing for the official respondent. The core question that arise for consideration in these writ petitions is as to whether the order of dismissal passed against the petitioner has been preceded by a valid enquiry or not.

13. It is seen from the records that five charges have been framed against the petitioner in the charge memo dated 27.04.2002 issued by the School management. The crux of the charges are (i) the petitioner, during the course of employment between 1989 to 1999, has misappropriated huge amount of the school welfare fund (ii) during the aforesaid period the petitioner has taken illegal possession of the land belonged to the school thereby he had acted against the interest of the institution for wrongful gain (iii) during the aforesaid period, the petitioner has purchased the land belonging to the school measuring 1.74 acres in the name of his wife and son from the erstwhile management knowing fully well that purchase would reduce the extent of the land holding of the school (iv) the petitioner has misbehaved with the Secretary of the School committee by using unparliamentary words affecting the prestige of the Secretary of the School in the presence of the School committee members and also a few teachers and staff in the office of the secretary within the school (v) the petitioner has committed several other grave irregularities affecting the name and fame of the institution. On receipt of the charge memo, the petitioner submitted his explanation dated 03.05.2002. Thereafter, the petitioner was suspended from service against which he filed WP No. 20960 of 2002 before this Court. Pending writ petition, the petitioner filed WP No. 28988 of 2002 for interim stay which was dismissed. As against the same, the petitioner filed W.A. No. 3048 of 2002 in which a direction was issued to the petitioner to submit his explanation to the charge

memo by indicating his explanation to each and every charges. Thereafter, the petitioner submitted his explanation dated 21.10.2002. In the explanation, the petitioner has specifically contended that the bank account was opened and maintained as per the instructions of the previous management and the accounts were settled to the satisfaction of the previous management. When the management has changed, the bank account was also closed as instructed by the previous management. It was further stated that the land mentioned in charge No.2 and 3 belonged to Mr. Sivaram, Managing Director of M/s. Aruna Sugars and Enterprises Limited from whom he has validly got the possessory right for a sale consideration of Rs.30,000/- Subsequent to such transfer, the petitioner has acquired right over the property and also applied for obtained patta in his name. The petitioner denied charge No.4 which relates to using unparliamentary words against the Secretary of the School and termed such allegation as baseless and imaginary. While denying charge No.5, it was stated that it is a false allegation and that the sum of Rs.100/- from 9 school students were collected with the approval of the Secretary of the School towards transportation charges for transporting 9 bicycles to be distributed to the school students. Above all, the petitioner has specifically contended that the charges framed against him by the management of the school is without authority of law and that the school committee alone is competent to frame charges against him. This was specifically stated by the petitioner in his explanation dated 21.10.2002 which reads as follows:-

"At the outset, I submit that the charge memo issued and the disciplinary proceedings sought to be conducted by the Secretary of the School is illegal, void and abinitio and totally without jurisdiction. The secretary does not have any authority of his own to issue the charge memo or conduct the enquiry. The competent authority has not produced the charges as resolved to initiate proceedings. Hence, the entire proceedings are void. However, without prejudice to my strong objections in this regard, I am submitting my reply to the charges as under.... "

14. It is evident that at the earliest point of time, the petitioner has questioned the jurisdiction of the Secretary of the School to issue the charge memo and the decision taken by Secretary of the School to initiate disciplinary proceedings against him. Even in the written statement filed by the petitioner before the Joint Director of School Education, he has categorically stated that there is no resolution passed by the school committee authorising the Secretary of the school to initiate disciplinary proceedings against him.

15. Notwithstanding such objection raised by the petitioner, an enquiry was conducted. The enquiry officer was one Mr. Siva Thiagarajan, who is one of the members of the school committee. Further, it is seen from the proceedings of the enquiry that one Mr. Sivaramasethu, Secretary of the School was nominated as the Presenting Officer in the enquiry. In the enquiry, Mr. Sivarasethu, Mr. C. Murugesan Pillai and Mr. S. Nilavan, all members of the committee have participated and deposed against the petitioner. It is to be pointed out that the first three charges levelled against the petitioner relates to his alleged misconducted during his employment with the erstwhile management. Therefore, in all fairness, some one from the erstwhile management ought to have been enquired during the enquiry. But there is nothing to show in the record of enquiry proceedings that none of the erstwhile management personnel were examined or participated in the enquiry. Thus, it is evident that the enquiry was conducted at the whims and fancies of the management of the school without following the established procedures under law. It is all the more necessary to indicate that the appointment of the enquiry officer was not authorised by the school committee. Similarly, the management representative was not authorised by the school committee. There is no resolution passed by the school committee to either appoint the enquiry officer or the presenting officer. Moreover, the petitioner, in his explanation to the charge memo has categorically questioned about the jurisdiction of the management of the school to frame the charges and their proposal to proceed with the disciplinary enquiry. In such view of the matter, in the absence of any authorisation by the school committee, the entire enquiry conducted against the petitioner is vitiated. In this context, useful reference can be made to the decision of this Court in (C. Ranganathan vs. The President/Secretary of School Committee, Maruthamalai Sri Subramanya Devasthanam Higher Secondary School, Coimbatore and another) reported in 1997 2 Law Weekly 872 wherein it was held in para No.17 and 20 as follows:-

"17. The school committee which is a creature under the Tamil Nadu Act 29 of 1974 has to act in terms of the said enactment on the Rules framed thereunder. Sub-rule 2 of Rule 14, already set out above, provides that no meeting of the school committee shall be conducted unless at least 7 days clear notice in writing has been given to the members of the committee. Rule 14 does not authorise or provide for passing of a Circular resolution by school committee. The school committee being a creature of the School Act has to act strictly in accordance with the provisions of the Act and the rules framed thereunder. The school committee cannot act in any

other manner. Rule 14 provides for the meetings of the school committee, which has to be convened by the Secretary of the School committee with the approval of the President. There is no provision which enables the first respondent to get a resolution passed by the school committee by circulation. It is fundamental that the school committee being a creature of the statute has to act according to the Rules and it cannot act in a different manner than what has been prescribed by the statutory provisions. When a statute requires to do a certain thing in a certain way, the thing must be done in that way or not at all and the other methods of performance are necessarily forbidden.

20. In the light of the said pronouncement, this Court holds that the school committee has to meet as prescribed in Rule 14 and no meeting of the school committee shall be conducted unless at least 7 days clear notice in writing has been given to the members. This statutory rule mandatorily provides that the school committee has to meet after issue of 7 days clear notice. As such passing of resolution by circulation by a school committee is not at all permissible in law. Thus, even assuming that the resolution was passed by circulation, it is void as passing of circular resolution is excluded by implication.

16. In the above case, it was contended before this Court that the resolution was passed by the school committee by circulation. This Court held that such a resolution passed by Circulation is not a procedure prescribed under Rule 14 of the Tamil Nadu Act 29 of 1974 and it is not having the force of law. In the present case, admittedly, there was no resolution at all passed by the school committee. Further, in the enquiry, the members of the school committee have participated and deposed against the petitioner, which is in violation of the established procedure for conducting the enquiry. It is also to be pointed out that the report of the enquiry was dated 26.12.2002 and it was communicated to the petitioner by a covering letter dated 27.12.2002. On the same day namely 27.12.2002, a meeting was convened in which the members have given their unanimous approval for dismissing the petitioner from service. As held by this Court in the above decision, Rule 14 of the Tamil Nadu Act 29 of 1974 mandates that seven days clear notice to all the members has to be given and only thereafter a meeting has to be convened to take a decision thereof. This mandatory procedure has been violated in the present case.

17. The Full Bench of this Court, in the decision (K.M. Valliappan vs. Joint Director of School Education (Higher Education) and appellate authority, College Road, Nungambakkam, Chennai - 6 and another) reported in 2006 (4) CTC 471, relied on by the learned counsel for the petitioner, considered that even though enquiry was conducted by the school committee, subsequently, before finalisation, it was entrusted to a sub-committee in which some of the members belonging to the school committee deposed. In such circumstances, the Full Bench held that the proceedings of the school committee is vitiated because some of the witnesses sat as members of the school committee and took decision and participated in the ultimate decision whereunder it was decided to punish the concerned employee. The said decision is squarely applicable to the facts of this case wherein the school committee members were appointed as enquiry officer, presenting officer and also deposed as witness in the enquiry proceedings. Therefore, it has to be held that the enquiry was not conducted in a manner known to law.

18. In this context, useful reference can be made to the order passed by the Chief Educational Officer, Cuddalore dated 04.03.2003. This order has been passed by the Chief Educational Officer, Cuddalore when the management of the school sought for approval of the decision to dismiss the petitioner from service. The Chief Educational Officer refused to accord approval as sought for by the management of the school on the ground that the petitioner has discharged his duties for the past 30 years without any blemish and he was a recipient of best teacher award by the Government of Tamil Nadu. It was further stated that he has immensely contributed for the development of the school under the erstwhile management of the school. He also pointed out that there was a rift between the petitioner and the new school management for reasons unknown. Ultimately, the Chief Educational Officer has opined that the punishment proposed to be inflicted against the petitioner is harsh and disproportionate. Notwithstanding such opinion, the management of the school proceeded to file an appeal against such order and got the order passed by the Chief Educational Officer reversed before the appellate authority.

19. The learned Senior counsel for the school management would contend that the petitioner participated in the enquiry and therefore it is not open to him to question the manner in which the enquiry was conducted. In this regard, the learned Senior counsel for the school management relied on the decision in the case of (National High School, Madras vs. Education Tribunal and another) reported in 1992 Supp (3) Supreme Court Cases 106 wherein it was held that the petitioner therein has not raised any objection as regards the conduct of enquiry and participated in the enquiry without any demur. This decision

will not lend support to the argument of the learned Senior counsel for the school management for the simple reason that in that case before the Supreme Court, it was found, on facts, that the delinquent therein participated in the enquiry without raising any objection as regards jurisdiction of the Secretary of the School to conduct the enquiry. The delinquent therein only wanted the enquiry to be conducted by an outside agency and accordingly a committee other than a school committee was constituted to conduct enquiry and report thereof was submitted to the School committee for further action. In the present case, the petitioner, at the time of submitting his explanation to the charge memo, has categorically stated that he is submitting his explanation without prejudice to his objection as regards the jurisdiction of the Secretary of the School to frame the charges and to conduct the disciplinary proceedings against him. While so, it cannot be said that the petitioner subjected himself to the enquiry proceedings without raising any objection as regards the jurisdiction of the Secretary of the School to conduct the enquiry.

20. Next it was contended on behalf of the school management that the petitioner admitted most of the charges and therefore, he is guilty of the charges. Such a submission cannot be accepted. Even for the charge memo, the petitioner has given a detailed explanation narrating each and every sequence of events. The petitioner has objected to the charges levelled against him in extenso. However, it is not known as to how the original authority - Joint Director, as well as the appellate authority, whose orders are impugned in these writ petitions, have concluded that the petitioner has accepted the charges. There was no occasion for the petitioner to do so. At every stage, the petitioner has opposed the charges levelled against him and relied on various documents and events in support of his defence. While so, the findings rendered by the original authority as well as the appellate authority are without any basis and they are liable to be interfered with.

21. It is seen from the records, particularly the order passed by the Chief Educational Officer, Cuddalore on 04.03.2003 that there was no qualm or quarrel with the petitioner in discharging his duties till the new management has taken over. There was some dispute between the members of the new management of the school and the petitioner. On appreciation of the said order dated 04.03.2003, this Court could conclude that for some obvious reasons, the petitioner was made to run from pillar to post by framing charges against him and by dismissing him from service without properly conducting an enquiry as per law. Earlier, the petitioner was reinstated in service by virtue of the judgment dated 07.10.2002 passed by the Division Bench of

this Court in W.A. No. 3046 of 2002. Even though the petitioner was reinstated for a short period, he was dismissed from service on 13.03.2004. After his dismissal, the school management has proceeded to recover the salary paid to him during the period of his suspension and it was held to be unjustified by this Court in the common order dated 16.04.2007 passed in the writ petitions filed by the petitioner as well as the management. Above all, the school management has also filed a suit in O.S. No. 161 of 2014 on the file of the learned Principal Subordinate Judge, Vriddachalam for a declaration to declare that the sale deeds in favour of the defendants 2 and 3, who are wife and son of the petitioner herein, as null and void and for a consequential relief of recovery of possession of the property.

22. On appreciation of the above facts this Court could also infer from the records that the petitioner would have attained the age of superannuation during the year 2001 but due to the legal battle emanated between the petitioner and the school management, for the past more than a decade, he could not get his retirement benefits. As observed by the Chief Educational Officer, Cuddalore, the petitioner was recipient of best teacher award during 1999. The new management took over on 04.10.1999. According to the petitioner, after the new management took over, he was subjected to harassment and humiliation by the members of the new management and he could not discharge his duties peacefully. In any event, as mentioned supra, the order of dismissal passed against the petitioner was not preceded by a valid enquiry. As mentioned above, the petitioner would have reached the age of superannuation during 2001. Now, almost 15 years have passed since the petitioner attained the age of superannuation. Therefore, at this stage, this Court is not inclined to remand the matter back to the management of the school to conduct an enquiry afresh by following the procedures contemplated under law. In such circumstances, this Court is inclined to allow the writ petitions by setting aside the orders impugned herein. As regards the claim of the petitioner for payment of interest at 18% is concerned, having regard to the facts and circumstances of the case, this Court is inclined to issue a direction to the respondents to pay the terminal benefits to the petitioner with interest at the rate of 6% per annum.

23. As regards the Civil Revision Petition, after elaborate argument, the learned counsel for the petitioner as well as the respondents would submit that the suit is pending from 2004 and trial in the suit has also been over. Therefore, the learned counsel for both sides submits that it is suffice if a direction is issued to the court below to dispose of the suit expeditiously, within a time frame. The said statement of the counsel for both sides is recorded.

24. For all the above reasons, the orders, which are impugned in the writ petitions are set aside. The writ petitions are allowed. No costs. The school management as well as the official respondents are directed to pay all the terminal benefits, which the petitioner is entitled to, forthwith, with interest at the rate of 6% per annum. Consequently, connected MP Nos. 1 and 1 of 2014 are closed.

25. The Civil Revision Petition is disposed of with a direction to the learned Principal Subordinate Judge, Vriddachalam to take up the suit in O.S. No. 161 of 2004 on its file and dispose it of within a period of four months from the date of receipt of a copy of this order. It is needless to mention that the petitioner shall extend his cooperation for speedy disposal of the suit in O.S. No. 161 of 2004. No costs. Consequently, connected MP No. 1 of 2014 is closed.

Sd/-  
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

1. The Joint Director of School Education  
(Higher Secondary)  
DPI Campus, College Road  
Chennai - 600 006
2. The Presiding Officer  
1st Assistant Judge,  
City Civil Court  
Chennai - 600 104
3. The Principal Subordinate Judge,  
Vridhachalam.

+3cc to M/S.R.Meenal, Advocate Sr.44246, 44245  
+2cc to Mr.G.Sundaram, Advocate Sr.44251  
+1cc to the Government Pleader Sr.44175

WP Nos. 2510 and 2511 of 2011  
and  
CRP (PD) No. 624 of 2014

pur[co]  
srg 18/08/2016