



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.12.2016

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.A.[MD].No.1580 of 2016

and

W.M.P.(MD).No.11707 of 2016

1.The Abiramam Educational Trust,
Rep by its Secretary,
Ramanathapuram District.

2.The Correspondent,
Muslim Higher Secondary School,
Abiramam, Ramanathapuram District.

: Appellants

Vs.

1.A.Ahamed Mansoor

2.The District Educational Officer,
Parmakudi, Ramanathapuram District.

3.K.A.Mohideen Meera

4.K.Pothuvan,
District Elementary Educational Officer [Retired],
And Enquiry Officer,
Muthukulathur, Ramanathapuram District.

: Respondents

PRAYER: Writ Appeal is filed under clause 15 of the Letters Patent against the order dated 04.11.2016, made in W.M.P.(MD).No.13913 of 2016 in W.P.(MD).No.19295 of 2016.

Prayer in WP(MD). 19295/ 2016 :

Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a Writ of Certiorari to call for the records of the impugned charge memo passed by the 3rd respondent in his letter No.11/2016 dated 10.08.2016 quash the same.

For Appellants

: Mr.M.Ajmal Khan

Senior Counsel

For Mr.C.Venkateshkumar

<https://hcservices.ecourts.gov.in/hcservices/> For Respondent No.1

: Mr.M.Subash Babu

For Respondent No.2

: Mr.VR.Shanmuganathan

Special Government Pleader



JUDGMENT

[Judgment of the Court was made by R.SUBBIAH, J.]

The first respondent herein filed W.P.(MD).No.19295 of 2016 challenging the charge memo issued by the third respondent/the second appellant, dated 10.08.2016. The first respondent also filed W.M.P.(MD).No.13913 of 2016 seeking grant of stay of all further proceedings of the impugned charge memo and the consequential order of suspension dated 17.08.2016.

2. When the said Writ Petition came up for hearing, on 06.10.2016, a learned Single Judge of this Court, granted interim stay for a period of four weeks. Thereafter, when the Writ Petition was listed for hearing on 14.11.2016, neither the counsel for the appellants nor the counsel for the respondents was present, except the learned Special Government Pleader for the official respondent. Therefore, the learned Single Judge, while recording that there was no counter filed, extended the interim stay already granted until further orders. Aggrieved over the same, the appellants/respondents 2 and 3 have come up with this Writ Appeal.

3. Today, when the Writ Appeal came up for consideration, Mr.M.Ajmal Khan, the learned Senior Counsel for the appellants, submitted that the main prayer sought for in the Writ Petition was to quash the charge memo dated 10.08.2016, whereas in the Miscellaneous Petition, the prayer sought for was to grant of stay of all further proceedings of the impugned charge memo and the consequential order of suspension dated 17.08.2016. However, the learned Single Judge, by way of interim order, stayed the charge memo as well as the order of suspension. The said stay order was, subsequently, extended until further orders, on the ground that there was no counter affidavit filed by the private respondents. But, on that date, when the interim order was extended, the petition filed by the appellants herein to vacate the stay was pending before the learned Single Judge. Since there was no representation on behalf of both sides, the interim order was extended by the learned Single Judge until further orders. Thus, the learned Senior Counsel for the appellants sought for a suitable modification of the said order.

4. Per contra, Mr.M.Subash Babu, the learned counsel appearing for the first respondent, submitted that the interim order already granted by the learned Single Judge was not made absolute and therefore, he is prepared to argue the main Writ Petition. At this juncture, the learned Senior Counsel for the appellants submitted that the first respondent filed a Contempt Petition, which is pending before the learned Single Judge. Therefore, the appellants have come forward with W.M.P.(MD).No.11707 of 2016 seeking stay of the order dated 04.11.2016 passed by the learned Single Judge.



5. In our considered view, since the Writ Petition is pending and the interim stay granted by the learned Single Judge was not made absolute, this Court is not inclined to entertain the Writ Appeal. Moreover, the learned counsel for the first respondent submitted that the first respondent will not press the Contempt Petition, till the disposal of the main Writ Petition and he is ready to argue the main Writ Petition. The learned Senior Counsel for the appellant also agreed for the same.

6. In view of the said submission made by the learned counsel for the parties, the Writ Appeal is disposed with a request to the learned Single Judge to take up the main Writ Petition, decide the issue and dispose of the matter at the earliest. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(Records)

/True Copy/

Sub Assistant Registrar

To

The District Educational Officer,
Parmakudi,
Ramanathapuram District.

Copy to

The Section Officer,
Writ Section,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/s.Ajmal Associates,Advocate Sr.No.79920
+1cc to the Spl.Govt.pleader Sr.No.80016
+1cc to Mr.M.Subash Babu,Advocate Sr.No.79953

JUDGMENT MADE IN
W.A.[MD].No.1580 of 2016
07.12.2016

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