



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.10.2016

CORAM:

**THE HONOURABLE MR. JUSTICE M. SATHYANARAYANAN**

**and**

**THE HONOURABLE MS. JUSTICE V.M. VELUMANI**

W.A. (MD) No. 129 of 2013

and

M.P (MD) .No.1 of 2013

Jomy James

... Appellant/Petitioner

Vs

1.The Chief Educational Officer,  
Nagercoil, Kanyakumari District.

2.The District Educational Officer,  
Kuzhithurai, Kanyakumari District.

3.The Correspondent,  
Hole Family High School,  
Arukany and Post,  
Kanyakumari District.

4.The Inspector of Police,  
Arukany Police Station,  
Kanyakumari District.

... Respondents/Respondents

**Prayer :** Writ Appeal is filed under Clause 15 of Letters Patent against the order dated 08.10.2012 made in W.P.(MD).No.13049 of 2012.

**Prayer in WP(MD). 13049/ 2012 :** Writ Petition is filed under Article 226 of the Constitution of India, praying this Court To issue a WRIT OF MANDAMUS, directing the 3rd Respondent to defer the disciplinary proceedings in pursuance of the Charge Memo issued to the Petitioner in Reference No.19/12 dated 15-06-2012, till the completion of the criminal case in Crime No.13/2012 on the file of the 4th Respondent.

For Appellant : M/s.Puhazh Gandhi  
For R.1&2&4 : Mr.AK.Baskarapandiyan  
Special Government Pleader.

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**JUDGMENT**

[Judgment of the Court was delivered by **M. SATHYANARAYANAN, J.**]

The petitioner filed W.P.(MD).No.13049 of 2012 praying for a Writ of Mandamus directing the respondents therein to defer the disciplinary proceedings initiated against him pursuant to the charge memo dated 15.06.2012, till the completion of the criminal case in Crime No.13 of 2012 registered by the fourth respondent therein was over.



2. The fact remains, among other things, would disclose that when the petitioner was working as Junior Assistant at Holy Family High School, Kanyakumari District, which is a Government aided school, the fourth respondent registered a case in Crime No.13 of 2012 for the alleged commission of offences under Section 294 (B) of IPC and Section 4 of the Tamil Nadu Women Protection Act, 2002, on the basis of a complaint given by one Sasikala and as per the allegation, the petitioner was sending pornographic words and pictures to the girls through his cell phone. The petitioner was granted anticipatory bail and thereafter, disciplinary proceedings were initiated by the said School. It was contended by the petitioner that since the criminal case as well as the disciplinary proceedings were on the very same set of allegations, till the completion of the investigation was over, the disciplinary proceedings has to be deferred. The learned Judge, on consideration of the facts and circumstances and also by placing reliance upon very many judgments and in the light of the ratio laid down in those judgments, dismissed the Writ Petition vide impugned judgment dated 08.10.2012 and hence, this Writ Appeal.

3. Learned Counsel appearing for the appellant would submit that if the departmental proceedings initiated against the petitioner is continued, his defence in the trial may be exposed of and in that event, he would be prejudiced, while defending the charges levelled against him. Therefore, till the completion of the trial in the criminal case is over, the disciplinary proceedings has to be deferred.

4. *Per contra*, Mr.AK.Baskaran Pandiyan, learned Special Government Pleader, accepts notice for the official respondents would submit that as per the settled legal position of law, the learned Judge dismissed the claim of the petitioner and hence, he prays for the dismissal of the Writ Appeal also.

5. This Court has considered the rival submissions of the parties concerned and perused the materials placed before us.

6. It is well settled legal position of law that the burden of proof in a disciplinary proceedings and the criminal trial stand on a different footing and in the light of the judgments relied by the learned Judge, while dismissing the Writ Petition, this Court is of the considered view that the disciplinary proceedings need not be deferred till the conclusion of the trial. It is also brought to the knowledge of the Court, the charge sheet is yet to be taken on file. The learned Judge, on proper consideration and appreciation of facts as well as settled legal position of law, dismissed the Writ Petition. This Court does not find any error nor infirmity



in the reasoned order of the learned Judge. Therefore, this Writ Appeal is dismissed. However there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AE)

/True Copy/

Sub Assistant Registrar

To:

- 1.The Chief Educational Officer,  
Nagercoil, Kanyakumari District.
- 2.The District Educational Officer,  
Kuzhithurai, Kanyakumari District.
- 3.The Inspector of Police,  
Arukany Police Station,  
Kanyakumari District.

+1 cc to the Spl.Govt.Pleader in SR No.60652

W.A (MD) .No.129 of 2013  
07.10.2016

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ANR/SK-SKN/03.11.2016/3P/5C