

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.09.2017

CORAM :

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

WRIT PETITION No.23795 of 2017

and

W.M.P.No.25014 of 2017

Mr.S.A.Anbazhagan

.. Petitioner

Vs.

District Collector,
O/o the District Collectorate (Development),
Ariyalur District,
Ariyalur.

... Respondent

Prayer : Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records from the respondent herein relating to proceedings issued in Na.Ka.No.4255/2009/R.D 2 dated 01.08.2017.

For Petitioner : Mr.V.Venkkatasamy

For Respondent : Mr.S.Gunasekaran
Additional Government Pleader

O R D E R

The show cause notice issued to the writ petitioner in proceedings dated 1st August, 2017 is under challenge in this writ petition. On a perusal of the show cause notice, it is seen that the respondent received a letter from the Secretary, Board of school Examinations in proceedings dated 10.07.2017, and he sent a letter to the District Collector, stating that the pattern of printing letters and figures in the mark sheet of the writ petitioner are entirely different and accordingly, directed to initiate departmental disciplinary proceedings against the writ petitioner. Pursuant to the letters sent by the Board of School Examinations on 10.07.2017, the respondent issued a show cause notice in proceedings dated 01.08.2017. Challenging the same, the present writ petition is filed.

2. No writ can be entertained against a show cause notice in a routine manner. A writ against a show cause notice can be issued, if a show cause notice was issued by the incompetent authorities having no jurisdiction or the same was issued with a

mala fide intention or a show cause notice is in violation of any statutory rules. Even in case of raising the allegations of mala fides, the authorities against whom such an allegation is raised, has to be impleaded as a party respondent in the writ proceedings in his personal capacity. In the absence of any of such ground, no writ can be entertained against the show cause notice.

3. The learned counsel appearing for the writ petitioner states that the respondent has already pre-determined the issue and has taken a decision. Such an argument at this stage cannot be considered and based on the letter of the Board of School Examinations, the action was initiated and the allegations against the writ petitioner are set out in the show cause notice and such allegations set out in the show cause notice cannot be construed as if the respondent has pre-determined the issue. It is left open to the writ petitioner to submit his explanation/objections to the show cause notice and the competent authorities should consider the same and take a decision on merits and in accordance with law. It is needless to state that the enquiry has to be conducted by providing an opportunity to the writ petitioner to submit his defence statements.

4. In this view of the matter, it cannot be presumed that the authorities have pre-determined the issue and they have to take a decision after conducting a proper enquiry in this regard. Therefore, no further adjudication on merits on the grounds raised in this writ petition needs to be undertaken.

5. Accordingly, the writ petition stands dismissed. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is also closed.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To
District Collector,
O/o the District Collectorate (Development),
Ariyalur District,
Ariyalur.

+ 1 cc to Mr.V.Venkkatasamy, Advocate, SR.63823
+ 1 cc to The Govt.Pleader, SR.

WRIT PETITION No.23795 of 2017

NR 04/10/2017