

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: **08.09.2017**

CORAM:

THE HONOURABLE **MR.JUSTICE S.M.SUBRAMANIAM**

**W.P.Nos.13640 and 14455 of 2017**  
**and**  
**W.M.P.Nos.16727, 14825, 14826 of 2017**  
**W.M.P.Nos.16728, 15660, 15661 of 2017**

Karen Viswanath

...Petitioner in both W.Ps.

/versus/

- 1.The Director of School Education,  
DPI Campus,  
College Road,  
Chennai - 600 006.
- 2.The Joint Director,  
Anglo - Indian Schools,  
DPI Campus,  
College Road,  
Chennai - 600 006.
- 3.The Inspector,  
Anglo - Indian Schools,  
DPI Campus,  
College Road,  
Chennai - 600 006.
- 4.The Correspondent,  
Doveton Girls' Higher Secondary School,  
Vepery,  
Chennai - 600 007.
- 5.The Doveton Protestant Schools Association,  
represented by its Secretary,  
Vepery,  
Chennai - 600 007.

6.H.E.Wilkins,  
Presently Correspondent,  
Doveton Girls' Higher Secondary School,  
Vepery,  
Chennai - 600 007.  
W.Ps.

...Respondents in both

**Prayer in W.P.No.13640 of 2017:** Writ petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for the records of the fourth respondent dated 18.05.2017 issued at the instance of the fifth respondent and quash the same as arbitrary, tainted with *mala fides* and in violation of principles of natural justice and without jurisdiction.

**Prayer in W.P.No.14455 of 2017:** Writ petition is filed under Article 226 of Constitution of India for issuance of a Writ of Certiorari, to call for the records of the fourth and fifth respondents dated 26.05.2017 received by the petitioner on 07.06.2017 and quash the same as arbitrary and *mala fide*.

For Petitioner : Mr.D.Akshay Ani Reddy  
in both W.Ps.

For Respondents 1 to 3 : Mr.K.Dhananjayan  
Spl. Government Pleader  
in both W.Ps.

For Respondents 4 to 6 : Mr.R.Singaravelan  
for Mr.N.D.Bahety  
in both W.Ps.

**COMMON ORDER**

The show cause notice dated 18.05.2017 and the Charge Memo dated 26.05.2017 issued at the instance of the first respondent is under challenge in these Writ Petitions.

2. In the said show cause notice and charge memo, the Writ Petitioner was called upon to submit her explanation in writing within 48 hours, as to why her services should not be dispensed with and terminated on account of her incompetence.

3. The learned Senior counsel Mr.R.Singaravelan appearing on behalf of the Respondents 4 to 6 and filed a Memo on 07.09.2017 and the memo is extracted hereunder.

*"1. It is humbly submitted that the Writ Petitioner has filed two Writ Petitions challenging the Charge Memo dated 18.05.2017 and the order of suspension dated 26.05.2017 on the grounds that the School Committee has predetermined the issue by mentioning the words "dispense with your service" and 'terminate' and the Charge Memo is not in the proper order.*

*2. It is humbly submitted that on those grounds this Hon'ble Court was pleased to grant*

stay on 05.06.2017 and 09.06.2017 respectively. As the interim orders are *exparte* interim orders, the Management had taken time to collect the papers and get an opinion. In the meanwhile two Contempt Petitions were filed alleging that there is violations of the interim orders. On perusal of the entire file and the legal opinion offered in the matter, the School had decided to withdraw the Charge Memo dated 18.05.2017 and the Charge Memo dated 26.05.2017 and issue a fresh charge memo combining both the charge memos in the proper format indicating clearly only subject to the outcome of the enquiry and her explanation decision will be taken and not otherwise.

3. It is humbly submitted that the School has decided to pay full salary also for the period of suspension and accordingly the full salary is paid upto date. At the same time it is made clear in the order dated 04.09.2017 passed by the School, that she will be kept out of post and not be permitted to work as Headmistress as she may tamper with the evidences and hamper fair enquiry.

4. It is humbly submitted that the School reserves its right to place her under suspension in pursuance of the Charge Memo dated 04.09.2017 in its order dated 04.09.2017 itself.

5. It is humbly submitted that the School is willing to entrust the enquiry to any independent authority for findings on the charges though it has



*every right under the Act and the Rules to insist for enquiry by the School Committee alone. The School has decided to do so only as a Special case to avoid any unpleasant situation in the course of enquiry and such a concession given to the writ petitioner cannot be construed as a waiver of a statutory and fundamental right available in favour of the School being the Minority Institution and it will not be cited as a precedent for any other case in future. This decision is taken to respect the mind of this Hon'ble Court and the smooth disposal of the matters in the interest of the School, the students and the Staff.*

*6. It is humbly submitted that the School Committee undertakes to issue a notice to the Writ Petitioner on completion of enquiry by enclosing the copy of the enquiry officer's report and after getting her explanation, the School Committee on the basis of the available evidences on record and the enquiry officer's report will pass a final order not later than two weeks from the date of receipt of her explanation to the findings of the independent enquiry officer agreed by the School and the Writ Petitioner and decided by this Hon'ble Court.*

*7. The School Committee submits that the Writ Petitioner may be directed to cooperate with the enquiry before the Enquiry Officer so as to arrive at a final conclusion in the matter."*

4. The learned Senior Counsel made a submission that the Management has committed certain procedural violations and on legal advise, they are willing to correct the same and continue the disciplinary proceedings in accordance with the rules and by adhering the principles of natural justice.

5. The learned counsel appearing for the Writ Petitioner made an objection that already a charge memo was issued and the same was stayed in the contempt proceedings and therefore, the respondents/Management has no respect towards the legal proceedings pending before the Court. The second charge memo was issued on the same set of allegations and the irregularities exist even on today. However, the present memo is filed on 07.09.2017 and the Management is prepared to follow the rules regarding the disciplinary proceedings and the principles of natural justice.

6. The learned senior counsel at the outset submitted that the procedural violations occurred earlier will be cured in all respects and the disciplinary proceedings initiated against the writ petitioner with the procedures in accordance with law and in this

regard a proper advise will be provided to the Management.

7. Thus, the submission made by the learned counsel for the petitioner that earlier two charge memos were issued on the same set of allegations all to be rectified and a fresh proceedings pursuant to the undertaking given in memo dated 07.09.2017 will be followed.

8. In this Memo the Management has already withdrawn the show cause notice dated 18.05.2017 and the Charge memo dated 26.05.2017 and issued a fresh charge memo in proceedings dated 04.09.2017. Thus, it is for the writ petitioner to submit her explanations/objections and participate in the domestic enquiry and prove her innocence with regard to the allegations set out in the charge memo.

9. In this view of the matter, no further adjudication on the grounds raised in these writ petitions are required to be undertaken, in view of the fact that the impugned show cause notice dated 18.05.2017 and the Charge Memo dated 26.05.2017 under challenge in these writ petitions have been withdrawn by the Management. If any grievances arises for the writ petitioner from

and out of any other proceedings, it is left open to the petitioner to adjudicate the same in the manner known to law.

10. Accordingly, these writ petitions stand closed. No costs. Consequently, the connected Miscellaneous Petitions are also closed.

**08.09.2017**

Index:Yes/No  
Internet:Yes/No  
ah/rna  
**To**

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Vepery, Chennai - 600 007.

**S.M.SUBRAMANIAM,J**

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**14455 of 2017**

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